

IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH, MUMBAI

SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 1329/MUM/2021
(Assessment Year: 2005-06)

Uni-Design Jewellery Pvt. Ltd.,
Plot No. 4,5 and 6 (Part), SEEPZ,
Andheri, Mumbai - 400096
[PAN: AAACU0572G]

..... Appellant

Vs

Dy. CIT, Range 8(3), Mumbai,
Aaykar Bhavan, Churchgate,
Mumbai - 400020

..... Respondent

Appearances

For the Appellant/Assessee : Shri Vijaykumar Biyani
For the Respondent/Department : Shri Nishant Somaiya

Date of conclusion of hearing : 21.09.2022
Date of pronouncement of order : 31.10.2022

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Appellant has challenged the order, dated 25.05.2021, passed by the Ld. Commissioner of Income Tax (Appeals)-58, Mumbai [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2005-06, whereby the Ld. CIT(A) had partly allowed the appeal against the Assessment Order, dated 30.12.2008 passed under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').
2. The Appellant has raised the following grounds of appeals:

"1. The learned AO and the learned CIT(A) have erred in treating designing charges of Rs. 13,10,700/- as income

from other sources instead of treating the same as business income, even though the same is earned in regular course of business and thus, further erred in disallowing deduction u/s 10A on such receipts.”

3. The relevant facts, in brief, are that the Appellant is a company engaged in the business of manufacturing and export of diamond jewellery from its two units (named as Unit-I and Unit-II) located at SEEPZ, Andheri (East), Mumbai. The Appellant filed return of income for the Assessment Year 2005-06 on 31.10.2005. The case of the Appellant was selected for scrutiny. During the assessment proceedings, the Assessing Officer noted that the Appellant had claimed deduction under Section 10A of the Act in respect of Unit-II. The Appellant was asked to explain why the other income amounting to INR 17,85,152/- (including Designing Charges of INR 13,10,700/-) should not be excluded for the purpose of computing deduction under Section 10A of the Act. In response, the Appellant filed reply contending, inter alia, that Design Charges of INR 13,10,700/- were in the nature of business income. For the purpose of Section 10A of the Act the quantum of deduction is required to be computed taking into account the profits of the business. The Design Charges which are nothing but recovery of cost incurred for manufacture of jewellery exported out of India, and therefore, the same are to be treated as business income of the undertaking for computing deduction under Section 10A of the Act. However, the Assessing Officer treated Design Charges as 'Income from Other Sources' and excluded the same while computing deduction under Section 10A of the Act at the time of framing assessment under Section 143(3) of the Act vide order, dated 30.12.2008.

4. Being aggrieved, the Appellant carried the issue in appeal before CIT(A) against the Assessment Order, dated 30.12.2008. However, vide order, dated 25.05.2021, the CIT(A) dismissed the ground raised by the Appellant in this regard holding that the Appellant had failed to show that Design Charges were related to the export of jewellery.
5. Being aggrieved, the Appellant has preferred the present appeal.
6. The Ld. Authorised Representative for the Appellant submitted that the Design Charges were directly connected with the manufacturing and export of jewellery by Unit-II of the Appellant which is eligible for deduction under Section 10A of the Act. In order to support the aforesaid contention, he relied upon the following documents placed before us in the form of paper-book:
 - Debit Note for Designing Charges for USD 30,000 (equivalent to INR 13,10,700/-) raised by the Appellant on its client Covrois UNI-D S.A. Paris, France
 - Credit Advice issued by ABN Amro Bank for receipt of USD 30,000 from Covrois UNI- DSA, Paris
 - Reply, dated 23.04.2012, filed by the Appellant before CIT(A)

The Ld. Authorised Representative for the Appellant reiterated the submission made before CIT(A). Taking us through the above documents, he submitted that the income by way of Design Charges recovered from the client is nothing but recovery of cost incurred by the Appellant. The Design Charges from the integral part of the business of the Appellant which must be treated as business income of the Appellant and,

therefore, should be included in business income for the purpose of computing deduction under Section 10A of the Act. Per contra, Ld. Departmental Representative, taking us through the findings returned by the Assessing Officer and the CIT(A) submitted that the Appellant had failed to show that the Design Charges were related to the export of jewellery.

7. We have heard the rival contention and have perused the material on record including the documents placed before us in the form of paper-book by the Appellant. As per 'Schedule 9 – Sales' forming part of the financial statements for the relevant previous year, the Appellant has earned income of INR 99,96,14,737/- from export of jewellery which has been accepted by the Revenue. Before the Assessing Officer and the CIT(A), the Appellant had contended that Design Charges recovered are nothing but recovery of cost incurred by the Appellant. We note that on 11.03.2005 Unit-II of the Appellant had raised Debit Note for USD 30,000/- on Cavrois UNI-D SA towards product development, designing, and model making expenses incurred by the Appellant for developing designs. Thereafter on 25.05.2005, inward remittance of USD 30,000/- was received by the Appellant as per credit advise issued by the banker. The aforesaid income by way of Design Charges has been earned by Unit-II the undertaking of the Appellant eligible for deduction under Section 10A of the Act. In view of the aforesaid, we do not find merit in the contention of the Revenue that the Appellant has not been able to show that the Design Charges are not related to export of jewellery.
8. In view of the above, we hold that the Appellant has been able to establish that income by way of Design Charges are in the nature of business income as the same are inherently

connected with the business of export of jewellery undertaken by Unit-II of the Appellant, and therefore, the same must be included in business income for the purpose of computing deduction under Section 10A of the Act. With the aforesaid directions, Ground No. 1 raised by the Appellant is allowed.

9. In the result, the present appeal by the Assessee is allowed.

Order pronounced on 31.10.2022.

Sd/-
(Prashant Maharishi)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 31.10.2022
Alindra, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai