

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE SH. C. M. GARG, JUDICIAL MEMBER
AND
SH. N.K. BILLAIYA, ACCOUNTANT MEMBER**

ITA No.1/Del/2021
Assessment Year: 2018-19

AAR ESS Exim Pvt. Ltd. B-1/245, Pashim Vihar, New Delhi-110063 PAN No.AAACA0807G	Vs.	DCIT CPC Bangalore
(APPELLANT)		(RESPONDENT)

Appellant	Sh. S. K. Chaturvedi, CA
Respondent	Sh. Kanv Bali, Sr. DR

Date of hearing:	08/12/2022
Date of Pronouncement:	08/12/2022

ORDER

PER N.K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-1, New Delhi dated 11.09.2020 pertaining to A.Y.2018-19.

2. The grievance of the assessee read as under :-

1. *That the Ld. CIT (A)-1, New Delhi has erred by confirming the action of the Assessing Officer regarding disallowance of exemption under Section 10AA of the Income Tax Act, 1961 amounting to Rs. 72,29,052/- for which the appellant was*

statutorily entitled, merely on the ground that the same was claimed under Section 10B of the Income Tax Act, 1961 in ITR, her action is unjust, arbitrary and against basic canons of natural justice.

2. *That the Ld. CIT(A)-1, New Delhi has wrongly relied upon the decision of Hon'ble Supreme Court in case M/s. Goetze India Limited 284 ITR 332 which does not apply in appellant's case because the appellant has not made any fresh claim in assessment, the claim was already made in ITR under Section 10B instead of Section 10AA, this matter is covered by the decision of Hon'ble ITAT, Delhi Bench-C in case of ITO Vs. Indeutsch International ITA No. 4853/Del/2012. Her action is unjust, arbitrary and against basic canons of natural justice.*

3. *That the appellant craves leave to add, alter or modify any ground of appeal.*

3. Briefly stated the facts of the case are that the assessee electronically filed its return of income on 29.10.2018 which was processed by CPC, Bangalore u/s. 143 (1) of the Act.

4. While processing the return the CPC, denied the claim of deduction u/s. 10AA of the Act. Assessee moved an application for rectification u/s.154 of the Act. However, the application of the assessee was dismissed by the CPC stating as under :-

“Rectification application can be filed only to correct mistakes apparent from records. In this case, fresh claims of CFL is being changed in the rectification application. This change is not a mistake apparent from records. Hence, your rectification request cannot be processed.”

5. Assessee filed appeal before the CIT(A) but without any success.

6. Before the CIT(A) it was strongly contended that no fresh claim was made in rectification application and in-adverntently in the return of income the assessee has claimed deduction u/s. 10B instead of section 10AA of the Act which was a typographical mistake.

7. The CIT(A) was not convinced and was of the firm belief that the only way to get this claim is by filling a revised return not by filing rectification application before CPC.

8. Before us the Counsel for the assessee reiterated what has been stated before the lower authorities.

9. The DR fully supported the orders of the authorities below.

10. We have given a thoughtful consideration to the orders of the authorities below. It is true that the assessee has claimed deduction u/s.10B of the Act in its return of income instead of seciton10AA of the Act. This can be a human error while preparing E-return. Even if the CPC declined to entertain a rectification application, it was incumbent upon the first appellate authority to consider the claim of the assessee as the power of the CIT(A) are co-terminous to that of the AO. In the

interest of justice we deem it fit to restore the issue to the files of the AO.

11. The AO is directed to verify the claim of the assessee u/s. 10AA of the Act as per the relevant provisions of the law and decide the issue afresh after giving a reasonable and sufficient opportunity of being heard to the assessee.

12. In the result, the appeal is treated as allowed for statistical purpose.

13. Decision announced in the open court on 08.12.2022.

Sd/-
(C.M. GARG)
JUDICIAL MEMBER

NEHA, Sr. Private Secretary

Date:- .12.2022

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI