

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri Manjunatha, G. Accountant Member

आयकर अपील सं./I.T.A. No.500/Chny/2023
निर्धारण वर्ष/Assessment Year: 2016-17

Equiniti India Private Limited,
DLF IT Park, Block 10, 8th Floor,
1/124 Shivaji Gardens, Manapakkam,
Mount Poonamallee Road,
Ramapuram, Chennai 600 089.

Vs. The Assistant Commissioner of
Income Tax,
Corporate Circle 2(1),
Chennai.

[PAN:AABCI 3514M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Siddhesh Chaugule, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri R. Clement Ramesh Kumar, CIT
सुनवाई की तारीख/ Date of hearing : 17.08.2023
घोषणा की तारीख /Date of Pronouncement : 23.08.2023

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 21.02.2023 relevant to the assessment year 2016-17. The assessee has raised following grounds:

Grounds of Appeal

1. General

Equiniti India Private Limited ('Equiniti India' or 'the Appellant') submits that the Order dated 21 February 2023 passed by the Commissioner of Income-Tax, Appeals (CIT(A)'), National Faceless Appeal Centre, Delhi

under section 250 of the Income-tax Act, 1961 (the Act') is bad in law and is contrary to the facts and circumstances of the present case.

The detailed grounds of appeal, including the position in law and facts is set out in the ensuing paragraphs.

2. Non-grant of deduction claimed under section 10AA of the Act for SEZ Unit 1 amounting to INR 10,42,99,159 (Tax effect - INR 3,60,95,853)

2.1 *The Ld. CIT(A) has erred in not considering the fact that the Appellant was eligible to claim deduction under section 10AA of the Act for SEZ Unit 1 during the subject AY and had made such claim during the assessment / appellate proceedings. The Ld. CIT(A) failed to consider that no reference/ reason was provided by the Ld. Assessing Officer for not allowing the aforesaid claim at the time of passing the assessment order.*

2.2 *The Ld. CIT(A) has erred in not granting the claim of deduction under section 10AA of the Act on the basis that such claim was made by way of other than filing income-tax return without appreciating the fact that appellate authorities have the power to allow claim of deduction made otherwise than by way of filing revised return.*

3. *The Appellant craves leave to add to or alter, by deletion, substitution or otherwise, any or all of the above grounds of appeal, and to submit such statements, documents and papers as may be considered necessary either at or at any time before the hearing of this appeal.*

Consequential Relief

The Appellant prays that directions be given to grant all such relief arising from the grounds of appeal mentioned supra as also all consequential relief thereto, including and not limited to reinstatement of appropriate amount of taxable income.

2. Brief facts of the case are that the assessee filed its return of income for the assessment year 2016-17 on 25.11.2016 by admitting total income of ₹.10,43,46,320/- and book profit of ₹.8.25.55,661/- under section 115JB of the Income Tax Act, 1961 ["Act" in short]. The case of the assessee has been selected for Limited scrutiny under CASS. After following due procedures, the Assessing Officer has completed the assessment under section 143(3) of the Act dated 04.12.2019 by

accepting the returned income of the assessee without acknowledging the additional claim for deduction under section 10AA of the Act with respect to its SEZ unit I, which was filed on 02.12.2019.

3. The assessee carried the matter in appeal before the Id. CIT(A) against non-consideration of claim of deduction under section 10AA of the Act. By referring to various judgements, the Id. CIT(A) dismissed the appeal of the assessee by holding that the assessee has not filed any revised return of income for claiming the deduction under section 10AA of the Act.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that neither the Assessing Officer nor the Id. CIT(A) decided the appeal of the assessee on merits and therefore, prayed that the issue may be remitted back to the file of the Assessing Officer and decide the issue on merits.

5. On the other hand, the Id. DR has submitted that the Id. CIT(A) has decided the issue involved in this appeal on merits and there is no need to remit the matter back to the file of the Assessing Officer and seriously objected to the submissions of the Id. Counsel.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including paper book and case law filed by the assessee. In this case, the assessment under section 143(3) of the Act was completed on 04.12.2019 accepting the returned income of the assessee. However, during the course of assessment proceedings, the assessee has made a claim of deduction under section 10AA of the Act by filing Form 56F dated 22.11.2019 for SEZ Unit 1 before the Assessing Officer on 02.12.2019. However, the Assessing Officer has not considered the above claim of deduction under section 10AA of the Act and concluded the assessment. On appeal, while dismissing the appeal of the assessee the Id. CIT(A) has observed that merely filing of claim before the Assessing Officer will not entitle the assessee for 10AA deduction and in order to claim such deduction the assessee should have filed revised return for consideration. We have perused the assessment order and appellate order. In the appellate order, the Id. CIT(A) has simply referred to various case law and held that the assessee has not filed any revised return of income for claiming the deduction under section 10AA of the Act. Thus, neither the Assessing Officer nor the Id. CIT(A) have considered the issue on merits and therefore, in our considered opinion, the issue involved in this appeal has to be decided on merits by considering the facts and circumstances of the

case in accordance with law. Accordingly, we set aside the order passed by the Id. CIT(A) and remit the matter back to the file of the Assessing Officer to decide the claim of deduction under section 10AA of the Act on merits in accordance with law by affording an opportunity of being heard to the assessee.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 23rd August, 2023 at Chennai.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 23.08.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.