

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस.आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 1430/CHNY/2023
निर्धारण वर्ष/Assessment Year: 2011-12

**Toppan Merrill Technology
Services Pvt. Ltd.,**
5th Floor, Fortius Tower,
Olympia Technology Park,
Guindy, Chennai – 600 032.

**The Deputy Commissioner
of Income Tax,**
Vs. Corporate Circle 4,
Chennai.

PAN: AAECM 6364J

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Ashik Shah, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing

: 25.04.2024

घोषणा की तारीख/Date of Pronouncement

: 30.04.2024

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income-Tax (Appeals), Chennai in Order No.ITBA/APL/S/250/2023-24/1056841904 (1) dated 06.10.2023. The assessment was framed by the Deputy Commissioner of Income Tax (OSD), Corporate Circle-4, Chennai for the assessment year

2011-12 u/s.143(3) r.w.s. 92CA(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 03.03.2015.

2. At the outset, it is noticed that this appeal is barred by limitation by 2 days and assessee has filed condonation petition supported by affidavit and explained that this delay is due to unexpected cyclonic storm Michaung and the flood-like conditions in Chennai between 4th December, 2023 to 6th December, 2023 and hence, appeal could not be filed within the due date but it was filed on 07.12.2023 with a delay of 2 days. When these facts were confronted to Id. Senior DR, he could not controvert the above facts or could not contest. Hence, we condone the delay and admit the appeal for adjudication.

3. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the action of the AO in disallowing the claim of exemption u/s.10A of the Act in regard to inclusion of export turnover amounting to Rs.1,92,30,121/-. For this, assessee has raised various grounds but relied on ground Nos. 2.2 & 2.5 as under:-

“2.2 The lower authorities erred in reducing an amount of INR 1,92,30,121 from the ‘export turnover’ for the Impugned AY, in computing the eligible deduction under section 10A of the Act.

2.5 *Without prejudice, the lower authorities erred in not excluding the said amount of INR 1,92,30,121 from the total turnover for the Impugned AY, when the same is not considered as a part of the export turnover for the year, thereby not granting parity as per the settled position of law.”*

Apart from these two grounds, the assessee has not pressed other grounds.

4. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the AO on perusal of accounts and details of invoices raised during the year with reference to foreign services rendered and corresponding amount deposited with FIRC noticed that the following invoices have already been taken into account for calculating the amount received during the financial year 2009-10 and also the invoices raised for financial year 2010-11. The AO in his assessment order has depicted the chart. According to AO, since the amount totaling to Rs.1,92,30,121/- represents the invoices and payments not relating to the previous year relevant to assessment year 2011-12, the same was held not to be eligible for claim of exemption u/s.10A of the Act and accordingly, disallowed. Aggrieved, assessee preferred appeal before CIT(A).

5. The CIT(A) also repeated the same and dismissed the assessee's ground by observing in para 3.4 as under:-

“3.4 Further, the ratio as laid down by the Hon’ble Supreme Court in the case of M/s HCL Technologies Ltd. vs. ACIT does not apply to this case as the facts and circumstances of the said case differs from the facts and circumstances in the instant case. It is also seen that the AO has made the said addition only after giving due opportunity to the appellant to which the appellant has also duly complied. It is also found that the AO did not doubt the veracity of the claim made but has only disallowed the invoices pertaining to A.Y. 2010-11 and A.Y. 2012-13, which is correct as per the method of accounting followed by the appellant company. Thus, Grounds of Appeal No.1 raised by the appellant stands dismissed.”

Aggrieved, assessee came in appeal before the Tribunal.

6. Now, before us, the Id.counsel for the assessee filed copies of invoices in its paper-book consisting of pages 1 to 61 including extract of return of income, financial statement, form No.56F, realization of income schedule and sale invoices for assessment year 2010-11 as well as for assessment year 2011-12. The Id.counsel for the assessee drew our attention to the calculation of disallowances and explained the numerical data by the following chart:-

<i>Invoice</i>	<i>Amount (INR)</i>	<i>FIRC No.</i>	<i>Amount (INR)</i>	<i>Reasons</i>
<i>001/MTS/2010 (dated April 30, 2010) – For the services rendered during April 2010</i>	<i>17,346,010</i>	<i>411032500302</i>	<i>451,952 (USD 10,156)</i>	<i>As per the adjustment methodology followed by the appellant, this FIRC has been partly adjusted in the FY 2009-10 amounting USD 545,760 and balance USD 10,156 (taking 44.5 INR/USD as the exchange rate)</i>

				<i>has been adjusted towards the subject invoice pertaining to FY 2010-11.</i>
		411032400256	1,322,095 (USD 29,710)	<i>The FIRC for USD 29,710 has also been adjusted against the captioned invoice.</i>
		411033000331	15,571,973 (USD 349,932)	<i>This FIRC provides clearance for USD 3,274,360 out of which only USD 349,932 was adjusted in this invoice. Remaining amount was adjusted against subsequent invoice in the same year.</i>
018/MTS/2012 (dated September 30, 2011) – For the services rendered during March 2011 (True-up)	18,84,111	411102500341	1,884,111 (USD 693,352)	<i>Basis the mercantile method of accounting regularly followed, the appellant has accounted for all the services rendered during the said financial year irrespective of its invoicing. Hence, basis the services rendered, the appellant passed an accrual entry as unbilled revenue on March 31, 2011 and has subsequently raised an invoice on September 30, 2011</i> <i>Since the revenue has been recorded in FY 2010-11, the revenue is ought to be treated as pertaining to FY 2010-11 irrespective of the billing year.</i>

The Id.counsel for the assessee stated that the subject invoice amounting to Rs.1,92,30,121/- was already reduced from the computation of export turnover and not from the total turnover. Accordingly, the assessee contended that deduction u/s.10A of the Act was restricted at Rs.2,89,06,325/- as against the sum of Rs.3,13,82,905/- which was originally claimed by assessee. The assessee has correlated and reconciled the entire figure and it seems that the entire re-conciliation is matching with the amount declared in Form 56F. Hence, we find no infirmity in the claim of the assessee. Therefore, we allow the claim of assessee and the appeal of the assessee is accordingly allowed.

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

Order pronounced in the open court on 30th April, 2024 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 30th April, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.