

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH, COCHIN**

Before Shri Satbeer Singh Godara, Judicial Member and  
Shri Amarjit Singh, Accountant Member

**ITA Nos. 735, 736 & 749/Coch/2023**  
(Assessment Years: 2009-10, 2014-15 & 2010-11)

Aptiv Connection Systems India Private Ltd. 7/60-A & 60-B, Arakkunnam Pulikkamali Road Arakkunnam P.O., Kochi 682313 [PAN: AAACF5044Q]	vs.	DCIT, Corporate Circle 1(1) CR Building, IS Press Road Kochi 682018
(Appellant)		(Respondent)

Appellant by:	Shri Salil Kapoor, Advocate
Respondent by:	Smt. V. Swarnalatha, Sr. D.R.

Date of Hearing:	23.08.2024
Date of Pronouncement:	23.10.2024

**ORDER**

Per Bench

These assessee's three appeals arise against orders of the National Faceless Appeal Centre [in short the "NFAC"] Delhi, which details are as under :

Sr. No.	ITA No.	AY	DIN & Order No. Dated	Proceedings involved u/sec. of the Income Tax Act, 1961
1	735/Coch/2023	2009-10	ITBA/NFAC/S/250/2023-24/1055401292(1); dated 24.08.2023	143(3) r.w.s.147
2	736/Coch/2023	2014-15	ITBA/NFAC/S/250/2023-24/1055363904(1); dated 24.08.2023	143(3)
3	749/Coch/2023	2010-11	ITBA/NFAC/S/250/2023-24/1055564699(1); dated 29.08.2023	143(3) r.w.s.263

Heard both parties. Case files perused. We proceed assessment year-wise for the sake of convenience and brevity.

**ITA.735/Coch./2023 – [AY 2009-2010] :**

2. Coming to the assessee's first and foremost substantive ground seeking to annul the reopening herein, learned counsel refers to the Assessing Officer's reopening reasons dated 05.12.2016 reading as under :

*“To  
The Principal Officer,  
M/s Delphi Connection Systems India Ltd.  
formerly known as M/s FCI Technology Services Ltd.  
XII/101 Thiruvaniyoor, Vettickal Road,  
Thiruvaniyoor Post, Puthencruz Via,  
Ernakulam, Kerala - 682302*

*Sir,*

*Sub: Reasons recorded for issue of notice u/s 148 for A.Y.2009-10*

*The reasons recorded for issue of notice under section 148 for A.Y.2009-10 are as*

- 1. Brought forward losses of A.Y. 2008-09 have not been correctly declared by the assessee in the return.*
- 2. The Assessee has claimed deduction u/s 10A of Rs.40,96,155/- from business loss of Rs.24,20,60,716/- which is not proper.*
- 3. Additional depreciation of Rs.17,73,077/- has been claimed on assets put to use during the period relevant to A.Y. 2008-09.*
- 4. The assessee has not disallowed any expenses against the dividend income received of Rs.17,33,532/-.*

5. *"Lease principal repayment" of Rs.22,95,833/- has been claimed as deduction in the computation of income details of which has not been declared by the assessee in the return.*

*In view of the above, It is clear that the assessee had not fully and truly disclosed all material facts necessary for the assessment. Therefore, I have reasons to believe that income has escaped assessment within the meaning provided u/s 147 of the Income Tax Act, 1961."*

3. Suffice to say, we hardly need to elaborate the fact that the learned Assessing Officer had completed his section 143(3) assessment in assessee's case on 27.03.2013. We further note that the assessment year herein is AY 2009-10 and the Assessing Officer invoked section 148/147 mechanism without even indicating in the above extracted reasons as to whether any fresh tangible material existed herein or not. We find in this factual backdrop that Indu Lata Rangwala vs. DCIT [2016] 384 ITR 337 (Del) holds in para 35.6 that such fresh tangible material ought to form the basis for initiating sec.148/147 proceedings. We make it clear that there is no fresh tangible material before us in the case records. This assessee's appeal ITA.No.735/Coch./2023 succeeds in very terms thereby all issues on merits stand render academic. Ordered accordingly.

#### **ITA.No.749/Coch./2023 - [AY 2010-11]**

4. Learned counsel for the assessee first of all submits that both the lower authorities have erred in law and on facts in disallowing section 10A deduction of Rs.56,48,936/- which has been upheld in the CIT(A)'s detailed discussion as under: -

*"4.2 Ground No. 2 relates to addition at Rs. 56,48,936/- on account of excess deduction claimed u/s 10A of the Act. The appellant is a private limited company engaged in the manufacturing of connectors, providing computer aided design and engineering services. The appellant contended that during the year ended 31.03.2010, it had rendered services to various parties in respect of which all related expenses were also incurred and such expenses have been accounted /debited to Profit & Loss Account in the respective*

accounts. The appellant stated that as per mercantile system of accounting, the income to the tune of Rs. 56,48,936/- has accrued and the same is credited to Income from Computer Aided Design and Engineering Service and offered for tax. The appellant's plea that the bill relating to such services rendered has been raised on 14.04.2010. As on 31.03.2010, the amount of Rs. 56,48,936/- is offered to tax as unbilled revenue. The appellant further stated that the amount at Rs. 56,48,936/- is eligible for claim u/s 10A, since it relates to the service rendered by the Chennai Engineering Centre (CEO) during the F.Y. 2009-10 and the AO erred in reducing Rs. 56,48,936/- from the amount eligible for deduction u/s 10A of the Act in the F.Y. 2009-10. Alternatively, it has been submitted that if the deduction is not allowed on sale booked on the basis of unbilled invoice considering the transactions relate to next financial year then the amount booked on accrual basis should also be reduced from the sale of the present financial year.

4.2.1 This issue has been examined and it is seen that the appellant had declared total income at Rs. 71,76,698/- and claimed deduction of Rs. 50,48,936/- u/s 10A of the Act. On verification of the assessment order, it reveals that the chartered accountants had remarked in Form No 56F that "Turnover of the undertaking includes income due for the month of March 2010 of Rs. 56,43,468/- which was provided as on 31.03.2010 but subsequently reversed in April 2010". This remark itself shows that the sale entry has been reversed in April 2010 and then again booked on 14th April 2010 on the basis of actual invoices. Also, the copy of invoices show the order date, invoice date, ship date and print date as 14th April, 2010. However, the appellant has shown increased income/revenue to become eligible for higher deduction u/s 10A of the Act for the present financial year by adopting such practice. On examination of submission and details, it is also found that the appellant failed to show that such practice was adopted in preceding years and followed the principal of consistency in recognizing the revenue. Further, the appellant's contention that it had followed the accounting standard of ICDS-IV is misplaced because the said ICDS was notified u/s 145(2) of the Act vide Notification No. 87/2016 dated 29.09.2016 and made effective for AY 2017-18 and subsequent assessment years and not applicable to determine the profit of an undertaking for the present assessment year 2010-11. In view of the above discussion, the appellant is not eligible for deduction u/s 10A of the Act on Rs. 56,43,468/- and therefore, the AO's action in this regard is hereby confirmed.

Since the transactions/revenue relates to subsequent assessment year 2011- 12 and the denial of deduction of Rs. 56,43,468/- u/s 10A has confirmed, the appellant's alternate ground for reducing the revenue by Rs. 56,43,468/- is found to be reasonable. Hence, this alternate ground/submission is allowed subject to certain direction. Accordingly, the AO is directed to reduce the revenue for FY 2009-10 relevant to AY 2010-11 by Rs. 56,43,468/- and add this amount in the revenue receipts for FY 2010-11 relevant to AY 2011-12 as the appellant had reversed the entry of Rs. 56,43,468/- on 1st April 2010 before raising invoices of the same amount on 14th April, 2010 resulting nil impact on revenue recognition for FY 2010-11 as admitted by the appellant in its submission dated 22.08.2023. Thus, this ground of appeal is partly allowed".

5. Suffice to say, it has come on record that both the lower authorities have indeed accepted the assessee's argument in principle that the income herein has been derived from the eligible unit only. It is at this stage that the sole dispute between the parties is that since the assessee has raised invoices in the subsequent assessment year it is not entitled for raising the very deduction claim; after reversal of the said invoice in AY 2010-11 when it had actually made the export of services. That being the case, we find that neither there is any justifiable reason on both the lower authorities part in accepting the claim in principle in earlier years or in rejecting the same in the year of actual rendering of services. The assessee admittedly follows "mercantile" system and therefore, we see no reason to sustain the impugned disallowance. The assessee's first and foremost ground is accepted in very terms.

6. Learned counsel does not press the 4<sup>th</sup> substantive ground keeping in mind the smallness of amount in respect of disallowance of Rs.79,136/- u/sec.14A r.w. Rule 8D *qua* alleged exempt income. Rejected accordingly.

7. Lastly comes the third issue of disallowance of fees paid to RoC for enhancing the authorised capital which the assessee claimed as revenue expenditure. Learned Sr. DR submits that such a claim is capital expenditure as per Brook Bond (I) Ltd., vs. CIT [1997] 225 ITR 798 (SC). Learned counsel for the assessee submits that before invoking the impugned disallowance, the lower authorities have to examine the field in which the assessee has actually incurred the impugned expenditure. Faced with this situation, we restore the assessee's instant substantive ground back to the Assessing Officer for its actual verification and afresh adjudication. Ordered accordingly.

8. This appeal is partly allowed in above terms.

**ITA No. 736/Coch/2023 [AY 2009-10].**

9. The assessee pleads the following substantive grounds in the instant appeal: -
1. *“That in view of the facts and the circumstances of the case, the assessment order dated 16.12.2016 passed under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') and the additions and the disallowances made by the Assessing Officer (hereinafter referred to as 'the AO') is illegal, bad in law and without jurisdiction. The National Faceless Appeal Centre, Delhi (hereinafter referred to as 'NFAC") vide order dated 23.08.2023 has manifestly erred in upholding the said order.*
  2. *That in view of the facts and the circumstances of the case, the action of AG of adding the employees' share of PF to total income of the appellant under Section 2(24)(x) of the Act is bad in law. The NFAC has also erred in upholding the said addition.*
  3. *That in view of the facts and the circumstances of the case, AO/NFAC has erred in not appreciating the holistic view that the amount was remitted in the next working day itself, which falls well within the due date of filing of return of income.*
  4. *That in view of the facts and the circumstances of the case, AO/NFAC has erred in not appreciating that bad debts were already written off under Section 36(1)(vii) of the Act in the books of account of the appellant and has wrongly disallowed the same.*
  5. *That in view of the facts and the circumstances of the case, the action of disallowance of bad debts written off by the AO/NFAC is in violation of the Central Board of Direct Taxes issued Circular No. 551 dated January 23, 1990.*

6. *That in view of the facts and the circumstances of the case, AO/NFAC has erred in not appreciating that additions in earlier years are pending with appellate authorities and hence, brought forward losses ought to have been computed on the basis of Income Tax Return and not as per the assessed income of the earlier years.*
7. *The assessment order as well as the order of the NFAC have been passed based on surmises and conjectures and the same is without any basis.*
8. *That the documents explanations filed by the assessee and the material available on record has not been properly considered and judicially interpreted and have been wrongfully ignored.”*
10. Learned counsel submits very fairly that the assessee does not wish to press for ESI & PF disallowance u/s.36(1)(va) r.w.s. 2(24) of the Act keeping in mind the smallness of amount thereof subject to a rider that the same shall not be treated as precedent in any other year. We quote Checkmate Services Pvt. Ltd., vs. CIT [2022] 448 ITR 518 (SC) and reject the assessee’s instant substantive grievance in foregoing terms.
11. Next comes assessee’s 4<sup>th</sup> substantive ground that both the lower authorities have erred in law and on facts making section 36(vii) disallowance of bad debts despite the fact that the same had been duly written off in its books going by TRF Ltd., vs. CIT [2010] 323 ITR 397 (SC) and therefore, it’s impugned claim deserves to be accepted.
12. The Revenue on the other hand, submits that it was assessee’s risk and responsibility only to prove the said writing down in its books before the lower authorities.

13. Faced with this situation, we deem it appropriate the assessee's ground in principle and direct the learned Assessing Officer to verify assessee's actual write off afresh as per law, un-influenced by this discussion. The assessee shall ensure that it pleads and prove all the relevant facts in the consequential proceedings within three effective opportunities. It's appeal ITA.736/Coch/2023 is partly allowed of statistical purposes in very terms.

14. To sum-up, these assessee's instant three appeals ITA.Nos.735, 736 and 749/Coch./2023 are allowed, partly allowed and partly allowed for statistical purposes; respectively, in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 23<sup>rd</sup> October, 2024 under Rule 34 of The Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-  
(Amarjit Singh)  
Accountant Member

Sd/-  
(Satbeer Singh Godara)  
Judicial Member

Cochin, Dated: 23<sup>rd</sup> October, 2024

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar  
ITAT, Cochin