

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE 'B' BENCH, BANGALORE**

**BEFORE SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER  
AND  
SHRI VIJAY PAL RAO, JUDICIAL MEMBER**

**IT(TP)A No.1596(BNG.)/2012  
(Assessment year : 2008-09)**

M/s Xerox Business Services India Pvt.Ltd.  
(Erstwhile Affiliated Computer Services of India Pvt.Ltd.,)  
Level-6, ITPL Innovator Block,  
Whitefield,  
Bangalore-560 066  
**PAN No.AADCA8386M**

Appellant

**Vs**

The Deputy Commissioner of Income Tax,  
Circle-11(1)5<sup>th</sup> Floor, R.P.Bhavan,  
Nrupathunga Road,  
Bangalore

Respondent

**Assessee by : Shri Keerthi Narayan, CA  
Revenue by : Smt Neera Malhotra, CIT**

**Date of hearing : 11-02-2016  
Date of pronouncement : 17-02-2016**

**ORDER**

**PER SHRI ABRAHAM P GEORGE, AM;**

When this appeal filed by the assessee against an assessment done on it based on the directions of the DRP was taken up for hearing, learned counsel for the assessee submitted that the issues relating to transfer pricing were subject matter of adjudication under Mutual Agreement Procedure (**MAP**) in accordance with Article 27 of India – USA Double Taxation Avoidance convention. As per the learned AR, assessee therefore, was withdrawing the grounds relating to TP matters in this appeal. In support thereof, a copy of the order dated 28<sup>th</sup>

October, 2015 Foreign Tax & Tax Research Division of CBDT was filed. As per learned AR, the only other issue in the appeal filed by the assessee was on exclusion of those items which were deducted from export turnover from total turnover as well for computing deduction u/s 10A of the IT Act, 1961.

2. Per contra, learned DR fairly agreed that the MAP proceedings had brought to an end the dispute between the assessee and the department insofar as it related to TP matter. On the other issue, learned DR submitted that department had filed an SLP before the Hon'ble Apex Court against the judgment of the Hon'ble jurisdictional High Court in the cs of CIT Vs M/s Tata Elxsi Ltd.(2012) 349 ITR 0098.

3. We have heard the rival contentions and also perused the order dated 28-10-2015 giving the result of the MAP proceedings for the impugned assessment year in relation to the transfer pricing issue. Assessee had sought withdrawal of the transfer pricing issues raised by it in its appeal. In accordance with its request such grounds are dismissed as withdrawn.

4. Only other issue is with regard to computation of deduction available to the assessee u/s 10A of the IT Act, 1961. In view of the judgment of the Hon'ble

jurisdictional High Court in the case of M/s Tata Elxsi Ltd (Supra), assessee in our opinion, can legitimately claim reduction from total turnover, the items which are excluded from the export turnover, while computing u/s 10A benefit. This claim is directed to be allowed.

5. Levy of interest u/s 234B and 234D being consequential does not need specific adjudication.

6. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on the 17<sup>th</sup> February, 2016.

**Sd/-**  
**(VIJAY PAL RAO)**  
**JUDICIAL MEMBER**  
**Bangalore:**  
**D a t e d : 17-02-2016**  
**am**

**Sd/-**  
**(ABRAHAM P GEORGE)**  
**ACCOUNTANT MEMBER**

**Copy to :**  
1 Appellant  
2 Respondent  
3. CIT(A), Bangalore  
4. CIT, Bangalore  
5. DR, ITAT, Bangalore  
6. Guard File

By order  
AR, ITAT, Bangalore