

IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, JUDICIAL MEMBER
AND SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER

ITA No. 1459/Bang/2014
Assessment year : 2010-11

The Deputy Commissioner of Income Tax, Circle 6(1)(1), Bangalore.	Vs.	M/s. SLK Software Services Pvt. Ltd., 563/564, Niran Arcade, New BEL Road, Bangalore – 560 047. PAN : AAAECS 7548E
APPELLANT		RESPONDENT

Appellant by	:	Dr. Shankar Prasad, K., Jt. CIT(DR)
Respondent by	:	Shri K.R. Vasudevan, Advocate

Date of hearing	:	15.04.2015
Date of Pronouncement	:	14.05.2015

ORDER

Per N.V. Vasudevan, Judicial Member

This appeal by the Revenue is against the order dated 25.08.2014
of the CIT(Appeals)-III, Bangalore relating to assessment year 2010-11.

2. The main grounds of appeal i.e., grounds No.2 & 3, read as follows:-

“2. The CIT(A) erred in directing the AO to follow the ratio laid down by the Hon’ble High Court in the case of Tata Elxsi Limited 349 ITR 98 while computing the deduction u/s 10A by excluding certain expenses from the total turnover also, without appreciating the fact that there is no provision in Section 10A that such expenses should be reduced from the total turnover also, as clause (iv) of the explanation to Section 10A provides that such expenses are to be reduced only from the export turnover.

3. The CIT(A) erred in not appreciating the fact that the jurisdictional High Court’s decision in the case of Tata Elxsi Limited 349 ITR 98 has not been accepted by the department and an appeal has been filed before the Hon’ble Supreme Court.”

3. The only issue that arises for consideration in this appeal is as to whether the CIT(Appeals) was justified in directing the AO to exclude freight, telecommunication, insurance, legal & professional and travelling & conveyance charges from the export turnover, without reducing the same from the total turnover also, while computing deduction u/s. 10A of the Act.

4. According to the AO, as per clause (iv) of Explanation to section 10A, while these expenses should be reduced from the export turnover, however, the provisions of section 10A do not provide for exclusion of such expenditure from total turnover. In the absence of a definition for total turnover in section 10A, the normal definition of total turnover has to be adopted and as such the expenses which are reduced from the export turnover in accordance with the specific definition cannot be reduced from the total turnover.

5. On appeal by the assessee, the CIT(Appeals) following the decision of the Hon'ble High Court of Karnataka in the case of *CIT v. Tata Elxsi Ltd., 349 ITR 98 (Karn)*, held that whatever is excluded from the export turnover, has also to be excluded from the total turnover.

6. Aggrieved by the order of the CIT(Appeals), the revenue is in appeal before the Tribunal.

7. The only grievance of the Revenue is that the decision of Hon'ble High Court of Karnataka in *Tata Elxsi (supra)* has not attained finality and an appeal by the department is preferred before the Hon'ble Supreme Court. We are of the view that as of today, law declared by the Hon'ble High Court of Karnataka which is the jurisdictional High Court is binding on us. We therefore hold that the order of CIT(A) does not call for any interference and accordingly the same is confirmed.

8. In the result, the appeal by the Revenue is dismissed.

Pronounced in the open court on this 14th day of May, 2015.

Sd/-

(ABRAHAM P. GEORGE)
Accountant Member

Sd/-

(N.V. VASUDEVAN)
Judicial Member

Bangalore,
Dated, the 14th May, 2015.

/D S/

Copy to:

1. Appellant
2. Respondents
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar /
Senior Private Secretary
ITAT, Bangalore.