

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH ' A '**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER AND
SHRI JASON P. BOAZ, ACCOUNTANT MEMBER**

I.T.(T.P.) A. No.677/Bang/2012
(Assessment Year : 2007-08)

Income Tax Officer,
Ward 11(1), Bangalore.

.... Appellant.

Vs.

M/s. Business Process Outsourcing (India) Pvt. Ltd.,
Tower 2D, VrindavanTech Village,
Devarabeesanahalli, ORR,
Bangalore-560 037.
PAN AABCB 5293N

.... Respondent.

Appellant By : Shri G.R. Reddy, CIT-I (D.R)
Respondent By : Smt. Mehtab, Advocate.

Date of Hearing : 22.7.2015.
Date of Pronouncement : 24.07.2015.

O R D E R

Per Shri Jason P. Boaz, A.M. :

This appeal by the Revenue is directed against the order of the Commissioner of Income Tax (Appeals)-I, Bangalore dt.2.3.2012 for Assessment Year 2007-08.

2. The facts of the case, briefly, are as under :-

2.1 The assessee company, in the business of providing software development services, filed its return of income for Assessment Year 2007-08 on 30.10.2007 declaring NIL income after claiming deduction under Section 10A of the Income Tax Act, 1961 (in short 'the Act'). The return was processed under Section 143(1) of the Act and the case was subsequently taken up

for scrutiny. The assessment was concluded under Section 143(3) rws 144C of the Act vide order dt.9.12.2010 wherein the assessee's taxable income was determined at Rs.97,30,739 in view of recomputation of the assessee's claim of deduction under Section 10A of the Act.

2.2 Aggrieved by the order of assessment dt.9.12.2010 for Assessment Year 2007-08, the assessee preferred an appeal before the CIT (Appeals) - I, Bangalore on the issue of deduction under Section 10A of the Act. The learned CIT (Appeals) allowed the assessee's appeal vide order dt.2.3.2012.

3. Revenue, being aggrieved by the order of the CIT (Appeals) - I, Bangalore dt.2.3.2012 for Assessment Year 2007-08, has preferred this appeal raising the following grounds :-

"1. The order of the learned CIT (Appeals), in so far as it is prejudicial to the interest of revenue, is opposed to law and the facts and circumstances of the case.

2. The learned CIT (Appeals) was not justified in directing the Assessing Officer to recompute the deduction allowable under Section 10A of I. T. Act, 1961 after reducing the communication expenses of Rs.1,63,02,488 and foreign currency expenditure of Rs.2,50,18,014, both from the export turnover and from the total turnover, without appreciating the facts and circumstances of the case.

3. The learned CIT (Appeals) has erred in not appreciating that there is no provision in section 10A, which requires the above mentioned expenses to be reduced from the total turnover.

4. The learned CIT (Appeals) erred in allowing the relief, relying on the decision of the Hon'ble Karnataka High Court in consolidated order in ITA No.70/2009 & others, which has not reached its finality and SLP has been recommended to be filed before the Hon'ble Supreme Court u/s. 261 of the I T Act, 1961 against such order.

5. For these and such other grounds that may be urged at the time of hearing, it is humbly prayed that the order of the CIT (Appeals) be reversed in so far as the above mentioned issue is concerned and that of the Assessing Officer be restored.

6. The appellant craves leave to add, to alter, to amend or to delete any of the grounds that may be urged at the time of hearing of the appeal."

4. The Grounds at S.Nos.1, 5 & 6 are general in nature and therefore no adjudication is called for thereon.

5. Ground Nos.2 to 4 : Deduction u/s.10A of the Act.

5.1 Revenue challenges the action of the learned CIT (Appeals) in directing the Assessing Officer to exclude the expenses incurred in foreign currency towards telecommunication and travel expenses amounting to Rs.4,13,20,502 from both export turnover and total turnover while computing the deduction under Section 10A of the Act by placing reliance on the decision of the Hon'ble High Court of Karnataka in the case of CIT Vs. Tata Elxsi Ltd. (2012) 349 ITR 98 (Kar). It is submitted that this decision has not been accepted by the Department and the SLP filed by the Department is pending disposal before the Hon'ble Apex Court.

5.2 We have heard both the learned Departmental Representative and the learned Authorised Representative in the matter. Taking into consideration the decision rendered by the Hon'ble High Court of Karnataka in the case of Tata Elxsi Ltd. (supra), we are of the view that the impugned order of the learned CIT (Appeals), in directing the Assessing Officer that telecommunication charges and travel charges in foreign currency are to be excluded from both export turnover as well as total turnover while computing the deduction under Section 10A of the Act, is in order and no interference is called for therein. Consequently, Grounds raised by Revenue at S.Nos.2 to 4 in this appeal are dismissed.

6. In the result, Revenue's appeal for Assessment Year 2007-08 is dismissed.

Order pronounced in the open court on 24th July, 2015.

Sd/-
(P. MADHAVI DEVI)
Judicial Member

Sd/-
(JASON P BOAZ)
Accountant Member

*Reddy gp