

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

**BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER  
AND SHRI A. K. GARODIA, ACCOUNTANT MEMBER**

ITA No.312/Bang/2016
Assessment year : 2009-10

Dy. Commissioner of Income Tax, Circle-2(1)(1), 2 <sup>nd</sup> Floor, BMTc Building, Koramangala, Bangalore – 560 068.	Vs.	M/s. CRMIT Solutions Pvt. Ltd., No. 14, NR Towers Annexe, 1 <sup>st</sup> Floor, BTM Layout, 1 <sup>st</sup> Stage, 100 Ft Ring Road, Bangalore – 560 068. <b>PAN : AABCI 1483 K</b>
APPELLANT		RESPONDENT

Revenue by	:	Shri. M. K. Biju, JCIT
Assessee by	:	Shri. S. Sivakumar, Advocate

Date of hearing	:	09.11.2016
Date of Pronouncement	:	11.11.2016

**ORDER**

*Per Sunil Kumar Yadav, Judicial Member*

This appeal is preferred by the revenue against the order of CIT(A) on solitary ground that CIT(A) is not correct in law and facts to allow the incidental expenses to be reduced from both export turnover and total turnover. In this regard, the learned counsel for the assessee had invited attention to the order of CIT(A) with the submission that CIT(A) has decided

the issue relating to computation of deduction under section 10A of the act in the light of judgment of Jurisdictional High Court in the case of Tata Elxsi Ltd., Vs. ACIT 349 ITR 98 and directed the AO to exclude certain expenses which were excluded from export turnover, from the total turnover also. Therefore there is no infirmity in the order of the CIT(A).

2. The learned DR simply placed reliance upon the order of the AO.

3. Having carefully examined the order of the lower authorities, we find that CIT(A) has adjudicated the issue in the light of judgment of Jurisdictional High Court in the case of Tata Elxsi Ltd., Vs. ACIT 349 ITR 98 (supra). Therefore, there is no infirmity in the order of the CIT(A). For the sake of reference, we extract the relevant para of the CIT(A) as under:

“3.4 I have carefully considered the appellant’s contentions and perused the assessment order. The exclusion of the amount of Rs.1,27,150/- not realised within the stipulated time for calculating the deduction u/s 10A is not contested but the exclusion of other expenses mentioned above are contested. The appellant contends that the expenses relating to foreign travel have not been incurred in foreign currency. Neither the appellant in the Statement of Facts nor the AO in the assessment order has given break-up of the expenses incurred under various heads mentioned above. ...

3.5 However, there is merit in the alternative plea of the appellant for reducing the incidental expenses both from the export turnover and total turnover. The law as it stands now is in favour of the tax-payer in regard to the reduction of expenses from export turnover *vis-a-vis* total turnover for purposes of calculating the deduction u/s 10A of the Act. The Hon'ble High Court of Karnataka in Tata Elxsi Ltd. v. ACIT (349 ITR 98) has held that, where certain expenses are excluded from the export turnover for purposes of calculating deductions admissible under the Act, such expenses should also be excluded from the total turnover as

the export turnover forms part of the total turnover. It is also significant to note that the Hon'ble High Court of Karnataka has, while deciding a similar issue in the case of CIT & DCIT vs. Motor Industries Co. Ltd., Bengaluru [ITA.No.776/2007 c/w ITA.No.1172/2006, ITA.No.1171/2006, 744/2007 & 1155/2006 dated 13/6/2014] has followed the decision in the case of M/s Tata Elxsi Ltd. (supra) to hold that, if any expenditure is sought to be reduced from the export turnover, it should also be reduced from the total turnover. In the light of the decisions cited supra, the AO is directed to allow the appellant's claim for reducing the expenditure incurred in foreign currency not only from the export turnover but also from the total turnover. "

4. Since CIT(A) has decided the issue in the light of judgment of Jurisdictional High Court, we find no infirmity therein.

5. In the result, the appeal filed by the revenue is dismissed.

*Pronounced in the open court on this 11<sup>th</sup> day of November, 2016.*

Sd/-  
**(A. K. GARODIA)**  
**Accountant Member**

Sd/-  
**(SUNIL KUMAR YADAV)**  
**Judicial Member**

Bangalore.  
Dated: 11<sup>th</sup> November, 2016.  
/NS/

Copy to:

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

By order

Assistant Registrar,  
ITAT, Bangalore.