

(2011) 11 KAR CK 0140
In the Karnataka High Court
Case No : ITA No. 153 of 2011 (A.Y. 2005-06)

CIT

APPELLANT

Vs

Sitel Operating Corporation India Ltd.

RESPONDENT

Date of Decision : 02-11-2011

Acts Referred:

Income Tax Act, 1961 — Section 10 A, 80 HHC

Citation : (2012) 204 TAXMAN 56(1)

Hon'ble Judges : Ravi Malimath, J;N. Kumar, J

Bench : Division Bench

Advocate : E. Sanmathi Indrakumar, for the Appellant;

Final Decision : Dismissed

Judgement

1. The question that arises for consideration in this appeal is whether the Tribunal was correct in holding that when computing relief u/s 10-A of the Income Tax Act, 1961 the expenditure incurred by the assessee should not form part of the total turnover and as such it should be excluded from the total turnover if the same are reduced from export turnover. The said question was answered by this Court in the case of the CIT v. Tata Elxsi Ltd., in IT Appeal No. 70/2009 [reported as (2011) 42 (I) ITCL 337 (Karn-HC).] and other connected matters, disposed off on 30-8-2011 by holding as under:

From the aforesaid judgments, what emerges is that, there should be uniformity in the ingredients of both the numerator and the denominator of the formula, since otherwise it would produce anomalies or absurd results. Section 10-A is a beneficial section. It is intended to provide incentives to promote exports. The incentive is to exempt profits relatable to exports. In the case of combined business of an assessee, having export business and domestic business, the legislature intended to have a formula to ascertain the profits from export business by apportioning the total profits of the business on the basis of turnovers. Apportionment of profits on the basis of turnover was accepted as a method of arriving at export profits. In the case of section 80HHC, the export

profit is to be derived from the total business income of the assessee, whereas in section 10-A, the export profit is to be derived from the total business of the undertaking. Even in the case of business of an undertaking, it may include export business and domestic business, in other words, export turnover and domestic turnover. The export turnover would be a component or part of a denominator, the other component being the domestic turnover. In other words, to the extent of export turnover, there would be a commonality between the numerator and the denominator of the formula. In view of the commonality, the understanding should also be the same. In other words, if the export turnover in the numerator is to be arrived at after excluding certain expenses, the same should also be excluded in computing the export turnover as a component of total turnover in the denominator. The reason being the total turnover includes export turnover. The components of the export turnover in the numerator and the denominator cannot be different. Therefore, though there is no definition of the term total turnover in section 10-A, there is nothing in the said section to mandate that, what is excluded from the numerator that is export turnover would nevertheless form part of the denominator. Though when a particular word is not defined by the legislature and an ordinary meaning is to be attributed to the same, the said ordinary meaning to be attributed to such word is to be in conformity with the context in which it is used. When the statute prescribes a formula and in the said formula, export turnover is defined, and when the total turnover includes export turnover, the very same meaning given to the export turnover by the legislature is to be adopted while understanding the meaning of the total turnover, when the total turnover includes export turnover. If what is excluded in computing the export turnover is included while arriving at the total turnover, when the export turnover is a component of total turnover, such an interpretation would run counter to the legislative intent and impermissible. If that were the intention of the legislature, they would have expressly stated so. If they have not chosen to expressly define what the total turnover means, then, when the total turnover includes export turnover, the meaning assigned by the legislature to the export turnover is to be respected and given effect to, while interpreting the total turnover which is inclusive of the export turnover. Therefore the formula for computation of the deduction u/s 10-A, would be as under:

Profits of the business of the undertaking

x

Export turn over

[Export turnover + domestic turn over]

Total turn over

2. In view of the aforesaid legal position, we do not see any merit in this appeal. Accordingly, the appeal is dismissed. The substantial question of law framed in this appeal is answered in favour of the assessee and against the revenue.