IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "E" BENCH: NEW DELHI

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No.3394/Del/2016
[Assessment Year : 2010-11]

M/s. Genpact India Pvt.Ltd. [As successor to Genpact India] [As successor to Genpact Infrastructure (Hyderabad) Pvt.Ltd.], 12A Ground Floor, Prakash Deep Building, 7 Tolstoy Marg, Baroda House, New Delhi-110001. ***PAN-AABCE4461B***	vs	ACIT (OSD), Range-10, C.R. Building, ITO, New Delhi-110002.
APPELLANT		**RESPONDENT**

Appellant by	Shri Tarandeep Singh, Adv.
Respondent by	Shri Sujit Kumar, CIT DR
Date of Hearing	01.05.2025
Date of Pronouncement	09.07.2025

ORDER

PER MANISH AGARWAL, AM :

The present appeal is filed by the assessee against the order dated 01.02.2016 of Ld. Commissioner of Income Tax (A)-16, New Delhi ["Ld.CIT(A)"] in Appeal No.234/15-16 passed u/s 250 of the Income Tax Act, 1961 ["the Act"] arising from the assessment order dated 28.02.2014 passed u/s 143(3) of the Act pertaining to assessment year 2010-11.

2. Brief facts of the case are that the assessee is engaged in the business of providing various types of business process outsourcing services including finance and accounting, collections, insurance, customer fulfillment, data modeling and

analytics support, managed IT services, software solutions and e-learning. The assessee filed its return of income declaring total income of INR 24,73,007/- on 29.09.2010. The assessee furnished a revised return on 27.12.2011, declaring a total income of INR 6,55,876/- wherein unrealized export proceeds were excluded from export turnover and deduction u/s 10AA of the Act was recomputed. Thereafter, notice u/s 143(2) and questionnaire u/s 142(1) dated 10.10.2013 were issued. In response to the notices, Ld.AR attended the proceedings from time to time and furnished the requisite details. The assessee company was asked to explain as to why from the figure of export turnover taken by it for computation of deduction u/s 10AA, freight and telecommunication charges attributable to the delivery of services outside India be not reduced. Further the AO proposed to tax interest on term deposits as Income from Other Sources. After considering the replies of the assessee, the AO treated the interest from fixed deposits as "Income from other Sources" and held that the source is not eligible for deduction u/s 10AA of the Act and further reduced the amount of Telecommunication expenses and Recovery expenses in respect of migration / on-the-job-training services from the export turnover. Against such action an appeal was filed before the ld.CIT(A), who dismissed the appeal of the assessee thus the present appeal is filed before us.

3. The assessee has raised the following grounds of appeal:-

1. "That on facts and in law the CIT(A) erred in upholding that interest income of Rs. 1,30,03,393/-earned by the appellant from fixed deposits and loans given to employees is not eligible for claiming benefit u/s 10AA of the Income Tax Act 1961.

1.1 That on facts and in law the CIT(A) erred in holding that the above interest income is taxable as income under the head "Income from Other Sources".

2. That on facts and in law the CIT(A) erred in upholding that while computing deduction u/s 10AA of the Act following receipts are to be excluded within the ambit of "export turnover" as defined in Explanation 1 (i) to section 10AA of the Income Tax Act:

a) Telecommunication expenses: Rs.11,48,856/-

b) Recovery of expenses in respect of migration/on-the-job-training services: Rs.4,77,99,177/-

2.1 That on facts and in law the CIT(A) erred in not appreciating that recovery of expenses in respect of migration/on-the-job-training services and telecommunication expenses were not included in the figure of "export turnover" considered by the appellant while computing deduction u/s 10AA of the Act.

3. That on facts and in law the CIT(A) erred in upholding levy of interest u/s 234B of the Income Tax Act.

4. That on facts and in law to the Commissioner of Income Tax (Appeals) {herein above referred to as "CIT(A)") erred in upholding the order of AO partly and not allowing complete relief as claimed.

5. That on facts and in law, the orders passed by Assessing officer (herein above referred to as "AO") is void ab initio and bad in law."

4. Before us at the very outset, the ld. counsel for the assessee submitted that the issue relating to claim of deduction u/s 10AA of the Act on interest on fixed deposit and loans advanced to staff is covered in favour of the assessee and against the revenue by various judicial pronouncements. The ld. counsel for the assessee relied upon the following decisions to support his contentions:

i) CIT Vs Motorala India Electronics 225 Taxman 11 [Kar]

ii) CIT Vs. Hewlett Packard Global Soft 403 ITR 453

iii) Reviera House Furnishing 237 Taxmann 520 [Delhi]

iv) Camiceraia Apparels India 103 Taxmann.com 238 [Madras]

5. He further submits that in the case of group company of the assessee Genpact India Pvt. Ltd. in ITA no.6773/Del/2019 for AY 2010-11 vide order dated 11.10.2024 while deciding the appeal of the assessee, the Co-ordinate Bench of ITAT held that interest income on fixed deposits and interest on loans given to employees are eligible for deduction u/s 10AA of the Act.

6. Per contra, the ld. DR relied upon the following decisions and requested for confirmation of action of Ld.AO & Ld.CIT(A):

i) Conventional Fastners Vs. CIT 2018-TIOL-202-Supreme Court
ii) CIT VS. Jyoti Apparels [2008] 166 Taxman 343 [Delhi]
iii) CIT Vs. Mareena Creations [2010] 189 Taxman 71 [Delhi]
iv) Pandian Chemicals Ltd Vs. CIT 129 Taxman 539 262

7. We have heard the rival contentions and perused the material available on record. Considering the facts of the case in hand and in the light of above-mentioned judicial precedents, we are of the considered view that the interest income earned has to be treated as "business income" for the purposes of computation of deduction u/s 10A(4) of the Act.

8. The Hon'ble High Court of Karnataka in the case of ***Hewlett Packard Global Soft Ltd 403 ITR 453*** had the occasion to consider a similar claim and held in favour of the assessee the relevant findings of the Hon'ble High Court read as under:

> *"34. We are of the considered opinion that the above referred decisions relied upon by the learned counsel for the Revenue, Mr. Aravind do not cover the cases under Sections 10-A and 10-B of the Act which are special provisions and complete code in themselves and deal with profits and gains derived by the assessee of a special nature and character like 100% Export Oriented Units (EOUs.) situated in Special Economic Zones (SEZs), STPI, etc., where the entire profits and gains of the entire Undertaking making 100% exports of articles including software as is the fact in the present case, the assessee is given 100% deduction of profit and gains of such export business and therefore incidental income of such undertaking by way of interest on the temporarily parked funds in Banks or even interest on staff loans would constitute part of profits and gains of such special Undertakings and these cases cannot be compared with deductions under Sections 80-HH or 80-IB in Chapter VI-A of the Act where an assessee dealing with several activities or commodities may inter alia*

earn profits and gains from the specified activity and therefore in those cases, the Hon'ble Supreme Court has held that the interest income would not be the income "derived from" such Undertakings doing such special business activity. 35. The Scheme of Deductions under Chapter VI-A in Sections 80-HH, 80-HHC, 80-IB, etc from the 'Gross Total Income of the Undertaking', which may arise from different specified activities in these provisions and other incomes may exclude interest income from the ambit of Deductions under these provisions, but exemption under Section 10-A and 10-B of the Act encompasses the entire income derived from the business of export of such eligible Undertakings including interest income derived from the temporary parking of funds by such Undertakings in Banks or even Staff loans. The dedicated nature of business or their special geographical locations in STPI or SEZs. etc. makes them a special category of assessee entitled to the incentive in the form of 100% Deduction under Section 10-A or 10-B of the Act, rather than it being a special character of income entitled to Deduction from Gross Total Income under Chapter VI-A under Section 80-HH, etc. The computation of income entitled to exemption under Section 10-A or 10-B of the Act is done at the prior stage of computation of Income from Profits and Gains of Business as per Sections 28 to 44 under Part-D of Chapter IV before 'Gross Total Income' as defined under Section 80-B(5) is computed and after which the consideration of various Deductions under Chapter VI-A in Section 80HH etc. comes into picture. Therefore analogy of Chapter VI Deductions cannot be telescoped or imported in Section 10-A or 10-B of the Act. The words 'derived by an Undertaking' in Section 10-A or 10-B are different from 'derived from' employed in Section 80-HH etc. Therefore all Profits and Gains of the Undertaking including the incidental income by way of interest on Bank Deposits or Staff loans would be entitled to 100% exemption or deduction under Section 10-A and 10-B of the Act. Such interest income arises in the ordinary course of export business of the Undertaking even though not as a direct result of export but from the Bank Deposits etc., and is therefore eligible for 100% deduction."

9. Accordingly, we direct the AO to allow claim of deduction u/s 10AA of the Act on interest income on FDR and loans to employees. Ground No.1 raised by the assessee is accordingly, allowed.

10. **Ground No.2** is in relation to the inclusion of telecommunication expenses and recovery of expenditure in respect of migration/on the job training services from the total turnover when the same were excluded from the export business.

11. Before us., Ld.AR for the assessee submits that this issue has already been decided in favour of assessee group company i.e. Genpact India Ltd. wherein while deciding the appeal of the assessee in its own case in ITA No.6582/Del/2019 [AY 2010-11] order dated 11.10.2024, the Co-ordinate Bench of the Delhi Tribunal has held as under:-

> *31. "We have heard the parties and perused the materials on record. As could be seen, the aforesaid receipts were not treated as part of export turnover while computing deduction under section 10A of the Act. In this context, the Departmental Authorities have referred to Explanation 2(iv) to section 10A of the Act. However, it is observed, while deciding identical issue in assessee's own case in assessment year 2011-12 (supra), the Coordinate Bench has held as under:*
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> > *"5.1 We have heard the rival submissions and perused the materials available on record. The assessee is engaged in the business of providing Information Technology Enabled Services such as data entry, data processing services, data conversion, business support and billing services to its customers. During the year under consideration, the assessee company had claimed deduction u/s 10A/10AA of the Act amounting to Rs. 378,22,79,469/-. During the year under consideration, the assessee incurred telecommunication expenses in foreign currency amounting to Rs. 23,19,55,704/-. Out of this, the amount pertaining to undertakings eligible for claiming deduction under Section 10A and 10AA of the Act was Rs. 6,20,38,757/- and Rs. 3,24,95,309/- respectively. The above amount included expenses paid to various service providers for landline, mobile connectivity, dial com connectivity, payments made for mail server and various other charges. During the year under consideration, assessee has been reimbursed a sum of Rs 42,61,89,516/- and Rs 60,25,09,242/- on account of migration / on- the-job-training activities relating to undertakings claiming deduction under Section 10A and 10AA of the Act respectively. It is submitted that under the overall ambit of IT/IT*

Enabled Services, assessee also provides business process outsourcing services to customers located 15 | P a g e 6582/Del/2019 outside India as well as customers located in India. Provision of business process outsourcing services involve carrying out certain back-office operations of the customers through employees employed and operating out of the STPI and SEZ units of the assessee in India. For carrying out back-office operations of the customers from India, adequate on-the-job training is required to be provided to the assessee's employees in order to enable them to understand the operations of the customers and help in migrating those operations from overseas customer locations to STPI and SEZ units located in India. In order to effect the migration of customer operations from overseas locations to India, some of the employees of the assessee having requisite experience and skill are selected to undergo on-the-job training at overseas customer locations. The expenses incurred by the assessee on such on-the-job training or migration activities are reimbursed by the assessee's customers which, are netted-off against the respective expense items.

5.2 The learned AO by referring to the definition of export turnover as provided in Section 2(iv) of Section 10A of the Act, reduced the telecommunication expenses incurred in foreign currency relating to - reimbursement received by the assessee on account of migration/ on-the-job training activities from the export turnover and correspondingly did not reduce the same from the ambit of total turnover, thereby reducing the claim of deduction u/s 10A/10AA of the Act. This issue is no longer resintegra in view of the decision of the Hon'ble Supreme Court in the case of CIT vs. HCL Technologies Ltd reported in 404 ITR 719 (SC), wherein it was held that the items that are subject matter of reduction from export turnover in the numerator need to be reduced in the denominator from the ambit of total turnover also as admittedly total turnover is nothing but the sum total of export turnover and domestic turnover. Hence, the export turnover reflected in the numerator cannot be different from the export turnover figure reflected in the denominator. Hence, for the purpose of computing the deduction u/s 10A/10AA/10B/80HHC/80HHE etc. all items that were sought to be excluded from export turnover need to be excluded from total turnover also in order to bring parity. Respectfully following the said decision, ground nos. 1 to 3 raised by the assessee are allowed and ground nos. 5 and 6 raised by the Revenue are dismissed."

32. Facts being identical, respectfully following the decision of the Coordinate Bench, we hold that once the receipts are excluded from the export turnover, they have to be excluded from total turn over 16 | P a g e 6582/Del/2019 as well for computing deduction under section 10A of the Act. Grounds are allowed."

12. Further this order is followed in the case of DCIT vs Genpact India in ITA No.6542/Del/2016 for AY 2012-13 order dated 18.12.2024.

13. Per contra, Ld.CIT DR for the Revenue supports the orders of the authorities below.

14. We have heard the rival contentions and perused the material available on record. From the above discussion and by respectfully following the aforesaid judgements of the Co-ordinate Bench on the identical issue, we hold that once the receipts are excluded from the export turnover, they should have been excluded from the total turnover as well for the computation of deduction u/s 10AA of the Act. Accordingly, AO is directed to re-compute the amount of deduction u/s 10AA by excluding these two items from the total turnover as well. Thus, Ground No.2 to 2.1 raised by the assessee are allowed.

15. **Ground No.3 to 5** raised by the assessee are general in nature, needs no adjudication hence, dismissed.

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

Order pronounced in the open Court on 09.07.2025.

Sd/- ***Sd/-***

(MAHAVIR SINGH)
VICE PRESIDENT

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Amit Kumar, Sr.P.S

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