

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "A", HYDERABAD

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER
AND
SHRI S. S. GODARA, JUDICIAL MEMBER,

ITA Nos. 758 & 759/H/2016			
Assessment Year:2010-11 & 2011-12			
Axis Clinicals Limited, Hyderabad. PAN: AAHCA 9013 B	Vs.	DCIT, Circle-1(1), Hyderabad.	
(Appellant)		(Respondent)	
Assessee by:		Shri C.P. Ramaswamy	
Revenue by:		Shri C. Srinivas Reddy, DR	
Date of hearing:		08/02/2021	
Date of pronouncement:		07/04/2021	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

These appeals are filed by the assessee against the orders of the Ld. CIT (A)-11, Hyderabad in appeal Nos. 523 & 86/CC-1(1),Hyd/CIT(A)-11/13-14, dated 20/01/2016 passed U/s. 143(3) r.w.s 250(6) of the Act for the AYs 2010-11 and 2011-12.

2. The issues involved in the case of the assessee for the both the assessment years are identical and hence both the appeals are heard together and disposed off by this common order.

3. The identical ground raised in both these appeals is that:-

The Ld. CIT (A) has erred in upholding the disallowance of claim of exemption U/s. 10B of the Act.”

4. The brief facts of the case are that the assessee is a Limited Company engaged in the business of conducting clinical trials on human beings on behalf of other Pharma Companies, filed its return of income for the AYs 2010-11 and 2011-12 on 12/10/2010 and 29/09/2011, admitting the income approximately Rs.21.93 Crs and Rs. 33.39 Crs respectively for the AY 2010-11 and 2011-12. The assessee had claimed exemption U/s. 10B of the Act to the extent of Rs. 15,76,43,161/- and Rs. 7,77,97,555/- for the AY 2010-11 and 2011-12 respectively. The case was taken up for scrutiny under CASS and finally the assessment was completed U/s. 143(3) of the Act on 15/3/2013 and 28/03/2014 for the AY 2010-11 and 2011-12 respectively.

5. During the course of scrutiny assessment proceedings, the Ld. AR had submitted that the predominantly activity of the assessee-company is to conduct clinical trials on voluntary individuals for administering drugs provided by the assessee's clients and thereafter carrying out Bioequivalence (BE) and Bioavailability (BA) studies in the laboratories and reporting the results to the client. It was further submitted that the studies were sponsored by local drug manufacturers in India as well as foreign drug manufacturers. It was further explained that the drugs which are to be tested for Bioequivalence / Bioavailability studies will be sent by the foreign manufacturers along with a “reference product”.

It was further observed by the Ld. AO that the modus operandi of the assessee-company was obtaining volunteers between the age group of 18 to 45 with the help of agents. The physical and health conditions of the volunteers are verified before the sample doses of the drugs are administered to them and thereafter clinical data were obtained from those individuals for analysis. The analysed data was subsequently tabulated in the computer and sent to the assessee's clients. The assessee claim was that this process falls under the category of "data processing" which qualifies for exemption U/s. 10B of the Act. After elaborately analysing the activities carried out by the assessee-company, the Ld. AO came to the conclusion that they do not fall under the category of 'data processing'. On appeal, the Id. CIT (A) also upheld the view of the Ld. AO.

6. Before us, the Ld. AR vehemently argued stating that the activities carried out by the assessee-company are nothing but 'data-processing' and therefore, the assessee-company is entitled to exemption U/s. 10B of the Act. The Ld. AR further relied on the decision of the Delhi High Court in the case of CIT vs. Kiran Kapoor reported in 372 ITR 321. The Ld. DR on the other hand, relied on the orders of the Learned Revenue Authorities.

7. We have heard the rival submissions and carefully perused the materials available on record. On examining the activities conducted by the assessee-company, it is apparent that the assessee-company's

activity is predominantly conducting clinical trials on individuals by administering them drugs and jotting the reactions and thereafter, processing the same in the computer by applying various software. This activity of the assessee-company cannot be considered as 'data processing' as construed under the Act. The data-processing work rendered by the assessee is only a small part while considering the entire job conducted by the assessee-company. The Ld. AR had relied on the decision of the Delhi High Court in the case of CIT vs. Kiran Kapoor reported in 372 ITR 321. In the said case, the question before the Hon'ble Delhi High Court was whether the activity of collation, formatting of data and information and its export fulfils the condition stipulated in section 10B(2)(i) of the Act. However, in the case of the assessee, the job performed by it is clinical trials conducted on human beings which are analysed and thereafter transmitted to the assessee's clients. Thus, the entire job-work pertains to the assessee's analysis with respect to the clinical trial conducted by it for which no data is provided by the assessee's clients to process. It is also evident that the assessee is not manufacturing or producing any articles or things or computer software. Assessee is also not in the business of developing software product, but it is only utilising certain software to process the data which are researched by it. It can also be construed that the assessee's business pertains to 'testing of drugs on human beings'. These aspects are examined by the ld. AO in detail and stated in his order elaborately, and the same could not be controverted by the Ld. AR

successfully. It is pertinent to mention that in today's scenario there is hardly any work which are performed without the aid of computer or software application. In normal parlance data processing is understood as follows: -

Manipulation of data by a computer. It includes the conversion of raw data to machine-readable form, flow of data to the CPU and memory to output devices and formatting or transformation of output. Any use of computers to perform defined operations from data can be included under data processing.

Generally, for processing the data in computer highly skilled personnel are not necessary. However, in the case of the assessee-company highly skilled personals are required. Further as per the notification issued by the Board with respect to Expln. 2(i) (b) of 10B of the Act, any customised electronic data or product or service of similar nature covers the following range of article and service (i) back office operation, (ii) call centre (iii) content development or animation (iv) data processing (v) engineering and design (vi) geographical information system services (vii) human resource services (viii) insurance claim processing (ix) legal data base (x) medical transcription (xi) pay roll (xii) remote maintenance (xiii) revenue accounting (xiv) support services and web site services. From the above, it is evident that in most of the above stated services the data is provided by the clients. Further, there is no activity of scientific

research is involved. All the above range of articles and services does not require highly skilled labour except in services like engineering design and remote maintenance. Keeping in view of these facts and circumstances of the case, we do not find it necessary to interfere with the orders of the Ld. Revenue Authorities on this issue.

8. In the result, appeals of the assessee for both the assessment years are dismissed.

Pronounced in the open Court on 07th April, 2021.

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 07th April, 2021.

OKK

Copy to:-

1.	Axis Clinicals Limited C/o. Dr. C.P. Ramaswami, Advocate, Flat Nos. 102/303, Gitanjali Apts., Plot No. 108, Srinagar Colony, Hyderabad.
2.	Dy. Commissioner of Income Tax, Circle-1(1), Hyderabad.
3.	The Commissioner of Income Tax-11, Hyderabad.
4.	The Pr. CIT (Central), Hyderabad.
5.	The DR, ITAT, Hyderabad.
6.	Guard file