

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

I.T.T.A. No. 73 of 2015

ORDER:- (per Hon'ble Sri Justice G. Chandraiah)

This appeal, at the instance of Revenue, is arising from the order of the Tribunal in ITA No.607/H/2014 dated 30.09.2014 for the assessment year 2009-10. The substantial question of law raised in this appeal reads as under:

“Whether in the facts and circumstances of the case and in law, Hon'ble Income Tax Appellate Tribunal was justified in upholding the order of the DRP to exclude communication expenses both from export turnover and total turnover for the purpose of computing deduction u/s 10AA of the Act even though as per the section these expenses are to be reduced only from the export turnover and there is no provision for exclusion of the same from total turnover in the Act.”

2. The case of the appellant/Revenue is that the assessee is engaged in the business of IT enabled services and has filed returns on income for the assessment year 2009-10. Aggrieved by the order dated 26.12.2013 passed by the Assessing Officer, the assessee as well as the Revenue has filed cross appeals before the Tribunal. The Tribunal, after adjudicating the issue at length, passed order dated 30.09.2014 which is impugned in this appeal.

3. When the matter is taken up, learned Standing Counsel for the Department brought to the notice of this Court that the issue raised in this appeal is one of the issues that came up for consideration before this Court in I.T.T.A. No. 471 of 2014 (**Commissioner of Income Tax v. M/s Market Tools Research (P) Ltd.**) and this Court, after referring

to the judgments in **Commissioner of Income Tax v. Gem Plus Jewellery India Ltd**^[1], and **I.T.O. v. Sak Soft Ltd.**^[2], dismissed the appeal.

4. Following the judgment rendered by this Court in I.T.T.A No.471 of 2014, we do not find any question of law to be decided in this appeal.

5. The appeal is, accordingly, dismissed. No costs. Miscellaneous petitions, if any pending in this appeal, shall stand closed.

G. CHANDRAIAH, J

CHALLA KODANDA RAM, J

02nd July, 2015

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[\[1\]](#) 330 ITR 175

[\[2\]](#) 313 ITR 353