IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 28 OF 2014

Commissioner of Income Tax, Central-III
Mumbai .. Appellant

v/s.

M/s. Ness Technologies (India) Pvt. Ltd. .. Respondent

Mr. Ashok Kotangale a/w Mr. Arun Nagarjun i/b Padma Divakar for the appellant
Mr. Atul Jasani for the respondent

CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.

DATED : 11th JULY, 2016.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 6th March, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2007-08.

2. The Revenue urges the following substantial question of law for our consideration :-

(a) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in upholding the order of the CIT(A) which held that the expenses which include

communication charges and expenses incurred in foreign currency for traveling should be reduced from the total turnover as well as from the Export Turnover for applying the provisions of Section 10A of the I.T. Act, 1961?

2. The impugned order of the Tribunal followed the order of this Court in respondent assessee's own case in an appeal filed by the Revenue being Income Tax No.5712 of 2010 which was dismissed on 24^{th} September, 2012. It is an agreed position between the parties that the issue raised herein stands covered against the Revenue in view of the decision of this Court in ***Commissioner of Income Tax Vs. Gem Plus Jewellery India Ltd. 330 ITR 175***. Thus, no substantial question of law arises for our consideration.

3. Accordingly, the appeal is dismissed. No order as to costs.

(A.K. MENON, J.) **(M.S. SANKLECHA, J.)**