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

INCOME TAX APPEAL NO. 1095 OF 2015

The Commissioner of Income Tax
(International Taxation), Pune .. Appellant

v/s.

M/s. Cummins Turbo Technologies Ltd., .. Respondent

Mr. Tejveer Singh for the appellant
None for the respondent

CORAM : M.S. SANKLECHA &
SANDEEP K. SHINDE, J.J.

DATED : 28th FEBRUARY, 2018.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 29th September, 2014 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2008-09.

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

(i) Whether in the facts and circumstances of the case and in law, the Tribunal was correct in excluding Genesys International

Corporation from the set of comparable companies on account of its high profit margin during the relevant year, though the company was found to be functional comparable by the assessee himself and included in the set of comparables in its TP study?

(ii) Whether on the facts and circumstances of the case, the Tribunal was justified in excluding Coral Hubs Ltd. (previously known as Vishal Information Technologies Ltd.) from the set of comparable companies on account of its high profit margins and low employee cost during the relevant year, though the company was found to be engaged in ITES activity?

3. Mr. Tejveer Singh, learned Counsel appearing for the Revenue in support of the appeal very fairly points out that the impugned order dated 29th September, 2014 passed by the Tribunal placed reliance upon a decision of its co-ordinate bench in the case of *Maersk Centres (India) Pvt. Ltd. Vs. ACIT* (ITA No. 7466/Mum/2012, dated 7th March, 2014) in favour of the respondent assessee. The Revenue being aggrieved by the order of the Tribunal in *Maersk Centres (India) Pvt. Ltd.* (supra) had preferred the appeals to this Court being Income Tax Appeal Nos.692 of 2012 and 693 of 2012. This Court by an order dated 22nd August, 2014 dismissed the Revenue's appeals on the aforesaid issue. In the above view, the questions nos.(i) and (ii) as proposed does not give rise to any substantial question of law. Thus, not entertained.

4. Thus, appeal is dismissed. No order as to costs.

(SANDEEP K. SHINDE, J.) **(M.S. SANKLECHA, J.)**