Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL No. 969 of 2016

The Principal Commissioner of Income-tax ..Appellant.
Vs
M/s Ness Technologies (India)Pvt.Ltd. ..Respondent.

Mr. N.C. Mohanty, Advocate for the Appellant.
Mr Atul Jasani, Advocate for the Respondent.

CORAM : AKIL KURESHI &
B. P. COLABAWALLA, JJ.

DATED :- 8TH JANUARY, 2019.

P.C. :

1. The Revenue is in appeal against the judgment of the Income Tax Appellate Tribunal (“**the Act**” for short). Following question of law is presented for our consideration:-

> Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in relying on the decision of Gem Plus Jewellery India Ltd. 330 ITR 175 (Bom) in holding that for the purpose of deduction / exemption under Section 10A of the Act the communication charges and expenses incurred in foreign exchange for travelling do not form part of total turnover and these items have to be

excluded from the total turnover, without appreciating that the department has not accepted the decision of the Jurisdictional High Court in the case of M/s Gem Plus Jewellery India Ltd.and has filed an SLP before the Supreme Court on the ground that the interpretation by the High Court is contrary to the legislative mandate of section 10A (4) of the Act?

2 It is undisputed position that the aforesaid issue is squarely covered against the Revenue by virtue of judgment of the Supreme Court in the case of Commissioner of Income-Tax, Central III vs. HCL Technologies Limited in Civil Appeal No. 8489-8490 of 2013. This issue was examined by this Court in Assessee's own case for earlier years in Income-Tax Appeal No. 268/2016 and connected appeal. Revenue's appeal was dismissed by judgment dated 12th October, 2018. In the result, present appeal is also dismissed.

(B.P. COLABAWALLA, J.) **(AKIL KURESHI, J)**