IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.308 of 2015

The Commissioner of Income Tax,
Chennai. ...Appellant/Appellant

Vs

M/s.Cognizant Technology Solutions India Pvt. Ltd.,
No.5/535, Okkiam Old Mahabalipuram,
Thoraipakkam, Chennai - 600 096. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 03.09.2014 made in ITA.No.1524/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2009-10 against the Order of the Commissioner of Income Tax (Appeals),Large Tax Payer Unit, Chennai dated 21.02.2014 and made in FBTA No.8/11-12/LTU(A) and against the Order of the Deputy Commissioner of Income Tax Large Tax Payer Unit, Chennai dated 12.06.2011 for the Assessment Year 2009-10.

For Appellant : Mr.T.Ravikumar, SSC
and Ms.R.Hemalatha, SSC

For Respondent : Mr.N.V.Balaji

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J.)

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel, and Ms.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant/revenue and Mr.N.V.Balaji, learned counsel appearing for the respondent/assessee.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 03.09.2014 made in ITA.No.1524/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2009-10.

3.The appeal was admitted on 08.07.2015 on the following substantial questions of law :

> "i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the expenditure towards the recreation club and sports club was not in the nature of Fringe benefits and deleting the additions made under Section 115WB(M)(N) was proper?
>
> ii) Is not the finding of the Tribunal bad especially when the statute did not differentiate the expenditure incurred by the clubs maintained by the employer or third party while dealing with Fringe benefit tax?
>
> iii) Whether the Tribunal was right in holding that no interest is chargeable under Section 115WJ (3) on account of short payment of Advance tax in respect of Employee Stock Option Plan?
>
> iv) Is it proper for the Tribunal in relying upon the decision of the assessment year 2008-09 without even considering the fact that ESOP was notified in December, 2007 and the assessee had complete knowledge of its liability towards Advance tax payable on ESOP even though the said judgment would not apply to the present case?"

4.The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5.In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs.
cse

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal, Chennai 'D' Bench.

2.The Commissioner of Income Tax
(Appeals),Large Tax Payer Unit,
II Floor, 1795 Jawaharla Nehru Inner Ring Road,
Anna Nagar, Western Extension,
Chennai.

3. The Deputy Commissioner of
Income Tax, Large Tax Payer
Unit, Chennai 600 101.

4. The Commissioner of Income Tax,
Chennai.

+1cc to M/s.N.V.Balaji & Rathinavel Advocate, SR.No.74918
+1cc to Mr.T.Ravi Kumar, Advocate, SR.No.73325

TCA.No.308 of 2015

Kak(07/11/2019)