IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2019

CORAM

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

Tax Case Appeal Nos.63 & 64 of 2016

The Commissioner of Income Tax,
Chennai. ...Appellant in both appeals

-vs-

M/s.Venture Lighting India Limited,
D-5, Phase-II, MEPZ Tambaram,
Chennai - 600 045. ...Respondent in both appeals

Appeala under Section 260A of the Income-tax Act, 1961, against the common order dated 23.05.2014 on the file of the Income-tax Appellate Tribunal 'A' Bench, Chennai in I.T.A.Nos.64 & 65/Mds/2014 for the assessment years 2005-06 and 2006-07 respectively,

and against the order dated 16/09/2013 and made in ITA Nos.818 and 939/2013-14 on the file of the Commssioner of Income Tax (Appeals)III, Chennai and against the order dated 18/12/2008 and 27/10/2009 and made in PAN/GIR No.AAACA9284H on the file of the Additional Commissioner of Income Tax, Company Range III, Chennai and The Income Tax Officer, Company ward III(J), Chennai-34.

For Appellant : Mrs.R.Hemalatha
[in both appeals] Senior Standing Counsel

For Respondent : Mr.A.S.Sriraman for
[in both appeals] Mr.S.Sridhar

COMMON JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

These appeals filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, are directed against the common order dated 23.05.2014 on the file of the Income-tax

Appellate Tribunal 'A' Bench, Chennai in I.T.A.Nos.64 & 65/Mds/2014 for the assessment years 2005-06 and 2006-07 respectively.

2.The Revenue has raised the following substantial questions of law for consideration:-

> "(i) Whether on the facts and circumstances of the case, the Tribunal was right in directing the assessing officer to recompute the income in the light of the decision of the Special Bench in the case of Sak Soft by excluding the freight and insurance expenses both Export turnover and also from the Total turnover while computing deduction under Section 10A? and
>
> (ii) Is not the finding of the Tribunal bad, especially when explanation 2(iv) to Section 10A defines the word 'Export Turnover' whereby it had been specifically stated that it would not include freight telecommunication charges, insurance attributable to the delivery of the articles or things or computer software outside India or expenses if any incurred in foreign exchange while providing information technology enable services outside India?"

3.Heard Mrs.R.Hemalatha, learned Senior Standing Counsel for the appellant/Revenue; and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned counsel for the respondent/assessee.

4.It is not disputed by the Revenue, rather agreed by the Revenue that the substantial questions of law framed in these appeals have been answered in favour of the assessee in the assessee's own case in M/s.ISOFT R&D Pvt. Ltd., vs. Assistant Commissioner of Income Tax, Chennai in T.C.A.No.1248 of 2008, dated 08.10.2018 wherein, we considered identical issue and answered the same in favour of the assessee, following the decision of the Hon'ble Supreme Court in the case of CIT vs. HCL Technologies Ltd., (2018) 404 ITR 0719.

5.Following the above decision, these tax case appeals are dismissed and the substantial questions of law are answered in favour of the assessee and against the Revenue. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mp

To

1.The Income-tax Appellate Tribunal 'A' Bench,
  Chennai.

2.The Commissioner of Income Tax,
  Chennai.

3.The Commissioner of Income Tax (Appeals),
  III, Chennai.

4.The Additional Commissioner of Income Tax,
  Company Range III, Chennai.

5.The Income Tax Officer,
  Company Ward III(J),
  Chennai-34.

+1cc to Mr.S.Sridhar, Advocate Sr.76085

T.C.A.Nos.63 & 64 of 2016

vd[co]
srg 18/10/2019