IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2019

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

Tax Case Appeal No.77 of 2016

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

-vs-

M/s.Williams Lea India Pvt. Ltd,
Module No.308, "D" Block, 3rd Floor,
Tidel Park, Taramani,
Chennai – 600 113. ...Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 28.05.2014 on the file of the Income-tax Appellate Tribunal 'A' Bench, Chennai in I.T.A.No.62/Mds/2014 for the assessment year 2008-09.

against order passed by the Commissioner of Income Tax, (Appeals) III, Chennai-34, made in ITA.No. 1431/2013-14 dated 16.09.2013 and against the order passed by the Assistant Commissioner of Income Tax Company Circle III (3), Chennai-34, made in PAN AAACW5477G dated 30.12.2011.

For Appellant : Mrs.R.Hemalatha
Senior Standing Counsel

For Respondent : Mr.K.Sudarshan

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

This appeal filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, is directed against the order dated 28.05.2014 on the file of the Income-tax Appellate Tribunal 'A' Bench, Chennai in I.T.A.No.62/Mds/2014 for the assessment year 2008-09.

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.K.Sudarshan, 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 this appeal has 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, this tax case appeal is dismissed and the substantial questions of law are answered in favour of the assessee and against the Revenue. No costs.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,
(Appeals) III, Chennai-34.

3.The Assistant Commissioner of Income Tax,
Company Circle III (3), Chennai - 34.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No. 75849

T.C.A.No. 77 of 2016

BS(CO)
GN(18/10/2019)