IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM

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

TAX CASE APPEAL NO.483 OF 2018

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

-vs-

M/s.Scope International Pvt. Ltd.,
Ist Floor, Europe Building,
Grindlays Gardens, No.1,
Haddows Road, Nungambakkam,
Chennai - 600 006.
PAN: AAECS 9043E .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961 against the order dated 08.12.2016 on the file of the Income-tax Appellate Tribunal 'A' Bench,Chennai, in I.T.A.No.2314/MDS/2016. Against the Order of the Commissioner of Income Tax (Appeals)-15, Chennain in ITA.No.10/CIT(A)-15/2014-15, dated 24.05.2016 against the Assessment order of the Deputy Commissioner of Income Tax Company Circle VI(1), Chennai in GIR/PAN.NO.AAECS9043E, dated 29.03.2014 for the Assessment Year 2010-11.

For Appellant : Mr.J.Narayanasamy
Senior Standing Counsel

For Respondent : Mr.S.P.Chidambaram

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

This appeal, filed by the appellant/revenue under Section 260A of the Income-tax Act, 1961 (hereinafter referred to as “the Act”), is directed against the order dated 08.12.2016 passed by the Income-tax Appellate Tribunal 'A' Bench, Chennai, in I.T.A.No.2314/MDS/2016 for the assessment year 2010-11.

2.The above appeal has been filed by raising the following substantial question of law:-

> "Whether on the facts and in the circumstances of the case the order of the Tribunal was right in law and perverse on facts and holding that the telecommunication expenses and foreign currency expenses had to be excluded from the total turnover while computing the deduction u/s.10A of the Act when the section does not provide for such exclusion and the said expenses cannot form part of the total turnover and whether the Tribunal order is perverse and against the accounting principle?

3.It is not disputed by the revenue that the Substantial Question of law framed for consideration has been answered against the revenue by the Hon'ble Supreme Court in the case of Commissioner of Income tax, Central-III, HCL Technologies Ltd. [(2018) 93 taxmann.com 33 (SC)]. In the said decision it was held that Definition of 'total turnover' given under sections 80HHC and 80HHE cannot be adopted for purpose of section 10a as technical meaning of total turnover, which does not envisage reduction of any expenses from total amount is to be taken into consideration for computing deduction under Section 10A; when meaning is clear, there is no necessity of importing meaning of total turnover from other provisions.

4.Following the above said decision, the appeal filed by the revenue is dismissed and the substantial question of law is answered against the revenue. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cse

To

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

2. The Commissioner of Income Tax (Appeals)-15, Chennai.

3. The Deputy Commissioner of Income Tax,
Company Circle VI(1), Chennai.

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.74197
+1cc to M/s.Subbarayar, Advocate, S.R.No.74738

T.C.A.No.483 of 2018

NMI(CO)
CS/24/10/2019