IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case (Appeal) No.191 of 2017

The Commissioner of Income Tax
Chennai. ... Appellant

Vs.

M/s.Cognizant Technology Solutions
India Pvt Ltd., 5/535, Okkiam, Old
Mahabalipuram Road, Thoraipakkam,
Chennai 600 096. ... Respondent

...

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'A' Bench, Chennai dated 09.07.2015 in ITA.251/Mds/2015,

against the Order of the Commissioner of Income Tax (Appeals), Large Tax Payer Unit, Chennai dated 30/10/2014 relevant to the Assessment Year 2006-07 in FBTA No.04/11-12/LTU(A) against the Order dated 12/12/2011 passed by the Deputy Commissioner of Income Tax, Large Tax Payer Unit, Chennai-101.

For Appellant : Mr.T.Ravi Kumar,
Senior Standing Counsel

For Respondent : Mr.N.V.Balaji

J U D G M E N T

(Judgment of the Court was delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'A' Bench, Chennai, by raising the following substantial questions of law:

"1.Whether on the facts and in the circumstances of the case, the Income Tax

Appellate Tribunal was right in recalling its order dated 18.04.2013 whereby the original order of the Tribunal was restored without even listing the case for hearing on merits?

2. Whether the Tribunal was justified in restoring the orders of the dismissal dated 20.08.2007 and 21.01.2008 wherein issue of approval by the Committee on Dispute was no longer relevant in view of the constitutional Bench judgment in the case of Electronics Corporation of India Ltd?

3. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that only travel expenditure for the benefit of employee constitutes Fringe Benefit when there is no such stipulation u/s.115WB(2)?

4. Whether the finding of the Tribunal is proper by holding that interest u/s.115WJ(3) is not leviable on advance FBT on ESOP?

5. Whether the finding of the Tribunal is proper on the question of levy of interest u/s.115WJ(3) wherein the Apex Court has held that levy of such interest is mandatory?"

2. When the matter was taken up for hearing, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

1.Income Tax Appellate Tribunal
'A' Bench,Chennai.

2.The Commissioner of Income Tax (Appeals),
Large Tax Payer Unit,
Chennai-1.

+1cc to Mr.T.Ravikumar, Advocate Sr.21884
+1cc to Mr.N.V.Balaji, Advocate Sr.22426

T.C.(A) No.191 of 2017

ss[co]
srg 02/06/2020