In the High Court of Judicature at Madras

Dated : 20.10.2021

Coram :

The Honourable Mrs.Justice Pushpa Sathyanarayana
and
The Honourable Mr.Justice Krishnan Ramasamy

Tax Case (Appeal) Nos.1234 to 1236 of 2015

Commissioner of Income Tax,
Chennai. ...Appellant in all Appeals

Vs

M/s.Cognizant Technology,
Solutions India Pvt. Ltd.,
30, Whites Road,
Chennai – 600 014.
PAN - AAACD3312M ...Respondent in all Appeals

Common Prayer : APPEALs under Section 260A of the Income Tax Act, 1961 against the order dated 09.06.2014 made in I.T.A.No.460/Mds/2010, I.T.A.No.751/Mds/2010 and I.T.A.No.864/Mds/2010, on the file of the Income Tax Appellate Tribunal, Madras 'C' Bench, preferred against the order dated 29.01.2010 and 12.03.2010 passed by the Commissioner of Income Tax(Appeals), Large Taxpayer Unit, Chennai made in ITA No.23/2007-08/LTU(A) and ITA No.35/2009-10/LTU(A), preferred against the order dated 05.09.2007 and 04.12.2009, passed by the Assistant Commissioner of Income Tax, Large Taxpayer Unit, Chennai made in GI/PA.No.AAAC331M.

For Appellant in all Appeals : Ms.K.G.Usha Rani

For Respondent in all Appeals : Ms.N.V.Lakshmi
for Mr.N.V.Balaji

COMMON JUDGMENT
Delivered By Krishnan Ramasamy,J.,

When the appeals are taken up for hearing, the learned counsel appearing for both sides submitted that the substantial questions of law involved in these Appeals have already been dealt with by the Honourable Supreme Court as well as this Court in favour of the assessee and therefore, the present Appeals may be disposed of on the same lines.

2. These Appeals under Section 260A of the Income Tax Act, 1961 filed by the Revenue, was admitted on the following substantial questions of law :

1) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the foreign currency expenditure has to be excluded from both export turnover and total turnover for the purpose of Section 10B of the Act?

2) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the expenditure incurred on telecommunication charges relatable to delivery of software outside India would also not form part of the total turnover for the purpose of Section 10B of the Act?

3) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the interest under Section 234D is leviable from assessment year 2004-2005 onwards, when the assessee's regular assessment was completed only on 17.03.2005?

4) Whether on the facts and circumstances of the case, the Tribunal was right in determining the disallowance under Section 14A of exempt income @ 2% without assigning any reason?

and

5) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the current losses of the eligible unit must be set off against profits of the other eligible units before allowing the deduction under Section 10A/10B?

2.1 The substantial questions of law Nos.1 and 2) referred above are substantial questions of law Nos.1 and 2) respectively in all these appeals, in respect of which, already the Honourable Supreme Court, in the case of Commissioner of Income Tax, Central III Vs. HCL Technologies Ltd., reported in (2018) 404 ITR 719, decided the issue in favour of the assessee.

2.2 The substantial question of law No.3) referred above is the substantial question of law No.3) in T.C.A.No.1234 of 2015, and the same has already been decided by this Court in favour of the assessee in T.C.A.No.733/2013, dated 24.08.2021, in re (The Commissioner of Income Tax, Chennai Vs. M/s. United India Insurance Co. Ltd.,) 2.3 The substantial question of law No.4) referred above is the substantial question of law No.3 in T.C.A.No.1235 of 2015 and the very same substantial question of law is decided in favour of the assessee by this Court, in CIT Vs. TAC Investments Finance (Madras) Ltd., reported in (2016) 74 Taxmann.Com 38 (Madras).

2.4 The substantial question of law No.5) referred above is the substantial question of law No.4 in T.C.A.No.1235 of 2015 is concerned, and the same is decided in favour of the assessee by the decision of this Court, in the case of Commissioner of Income Tax Vs. M/s. Yokogowa reported in (2017) 77 Taxmann.Com 41 (SC).

3. As the substantial questions of law involved herein are no longer res integra, and the same have already been dealt with in favour of the assessee by the Honourable Supreme Court as well as this Court, in the decisions referred to above, these Tax Case Appeals are liable to be dismissed on the same lines.

4. Accordingly, the Tax Case Appeals are dismissed. No costs.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

sd

To

1. The Income Tax Appellate Tribunal,
   Madras 'C' Bench.

2. The Commissioner of Income Tax(Appeals),
   Large Taxpayer Unit, Chennai.

3. The Assistant Commissioner of Income Tax,
   Large Taxpayer Unit, Chennai.

+1cc to Ms.K.G.Usha Rani, Advocate SR.No.53626

+3ccs to Mr.N.V.Balaji, Advocate SR.No.53828

Tax Case (Appeal)
Nos.1234 to 1236 of 2015

SSV(CO)
GMY(13/12/2021)