IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11-03-2025**

CORAM

THE HONOURABLE MR JUSTICE S. S. SUNDAR

AND

THE HONOURABLE MR JUSTICE C. SARAVANAN

TC(A) No. 883 of 2008

Commissioner Of Income Tax
Chennai. ..Appellant

Vs

M/s Cognizant Technology
Solutions India Pvt Ltd
30 Whites Road, II Floor,
Chennai- 14. ...Respondent

Prayer : This Appeal is filed in terms of Section 260A of Income Tax Act, 1961 to set aside the common order passed by the Income Tax Appellate Tribunal 'A' Bench in I.T.A.No. 1159/Mds/2007, dated 31.12.2007.

For Appellant: Mr. Karthik Ranganathan
For Respondent : Mr.N.V.Balaji

JUDGMENT

(Order of the Court was made by the Hon'ble S.S.Sundar J.)

This Appeal is directed against the order of the Income Tax Appellate Tribunal 'A' Bench in I.T.A.No. 1159/Mds/2007, dated 31.12.2007 in respect of the assessment year 2002 – 2003.

2. This Court by order dated 09.07.2008, admitted this appeal on the following substantial questions of law;

i. Whether in 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 10 A of the Act?

ii. Whether in the facts and circumstances of the case, the Tribunal was right in interfering with the order of the CIT on the issue of telecommunication charges, when the same had only been remanded by the CIT for factual verification to the assessing officer?

3. The facts are not in issue. The assessee company is engaged in the business of software development and export and have above five units in India which are registered as STPI/EOU units. It is also not in issue that the assessee has claimed exemption under Section 10 (B) of IT Act in respect of total amount of Rs. 149.47 Crores and total income of Rs. 10,95,03,660/-. Since the assessee incurred expenditure of foreign currency of Rs.15,76,38,717, the said income was reduced from export turnover in terms of Clause (III) of Explanation to Section 10 B of the I.T Act.

4. It is seen that the assessment officer has included the expenditure not only from total turnover but also from total income of assesse. The Commissioner of Income Tax interfered with the assessment order under Section 263 of I.T Act. As against the order of the Commissioner of the Income Tax, the tribunal has passed an order, allowing the appeal filed by the respondent, following its earlier order passed in *SRA Systems Ltd., in I.T.A.No. 334 of 2004 dated 15.06.2007.*

5. It is informed by the learned standing counsel appearing for the department that the issue is squarely covered by the judgment of the Hon'ble Supreme Court in the case of ***Deputy Commissioner of Income Tax Vs. SUBEX Ltd in SLP Appeal (C) No. 11311 of 2022 dated 01.08.2022, reported in [2022] 142 taxman.com242 (SC),*** when the issue had been answered against the department. Hence, the substantial questions of law are answered against the appellant.

6. In view of the above, the substantial questions of law are answered infavour of the assesse and the appeal field by the department is dismissed. No costs.

(S.S.SUNDAR J.) (C.SARAVANAN J.)
11-03-2025

Index : Yes/No
Internet : Yes/No

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To

M/s Cognizant Technology
Solutions India Pvt Ltd,
30 Whites Road, II Floor,
Chennai- 14.

S. S. SUNDA

C. SARAVANAN, J.

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