IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-06-2025

CORAM

THE HONOURABLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

TCA Nos.486, 487 and 488 of 2012

Newgen Knowledge Works P Ltd,
No.268, Royapettah High Road,
Chennai- 600 014
(formerly Newgen Imaging Systems
Pvt. Ltd.)

Appellant in all the appeals

Vs

The Assistant Commissioner Of Income Tax
Company Circle IV(4),
"Aayakar Bhavan",
Chennai – 600 034. Respondent in all the appeals

Prayer in all the appeals: Appeals filed under Section 260A of the Income Tax Act, 1961 against the "A" Bench of the Income Tax Appellate Tribunal (hereinafter referred to as the 'Tribunal') at Chennai, in ITA No.1871/Mds/2011, ITA No.1872/Mds/2011 and ITA No.1873/Mds/2011 for the assessment years 2005 – 06, 2006-07 and 2007 – 08.

For Appellant
in all the appeals : Mr.M.V.Swaroop

For Respondent
in all the appeals : Ms.V.Pushpa
Senior Standing Counsel

COMMON JUDGMENT

(Order of the Court was made by the Hon'ble The Chief Justice)

The following five substantial questions of law were framed on 07.01.2023:

> *"1. Whether in the facts and circumstances of the case, the Tribunal is right in reducing the tax holiday claim made by the appellant under Section 10B of the Act?*
>
> *2. Whether in the facts and circumstances of the case, the Tribunal is right in reducing the amount of expenditure incurred in foreign exchange from export turnover, while computing tax holiday claim under Section 10B of the Act, when in fact that the appellant does not provide any technical services to its clients outside India?*
>
> *3. Whether in the facts and circumstances of the case, the Tribunal is right in holding that the technical service and marketing service are one and the same whereas the definition under the Explanation 2 to Section 9(1) (vii) of the Act includes only "managerial, technical and consultancy" services?*
>
> *4. Whether in the facts and circumstances of the case, the Tribunal is right in reducing the amount of expenditure incurred in foreign exchange from export turnover, while computing tax holiday claim under Section 10B of the Act, on the finding that Ms. Aneeta Madhavan is providing technical services to the appellant?*
>
> *5. Whether in the facts and circumstances of the case, the Tribunal is right in reducing the amount of expenditure incurred in foreign exchange from export turnover, while computing tax holiday claim under Section 10B of the Act, when in fact that the appellant does not recover such expenditure in the invoices raised on its clients outside India?"*

2. Shri.M.V.Swaroop, appearing for appellant, states that the issue

raised in the first two questions are squarely covered by two judgments viz., by judgment of this Court in ***The Commissioner of Income Tax-I, Chennai v. M/s.Zylog Systems Limited*** [TCA Nos.312 and 381 of 2011 dated 20.02.2020] and by a judgment of the Karnataka High Court in ***Commissioner of Income-Tax, Bangalore v. Mphasis Ltd.***[1]. Both in favour of assessee.

3. Ms.Pushpa, in fairness, as an officer of the Court, agrees. Therefore, the first two questions are answered in favour of assessee.

4. In view of the above, Shri.M.V.Swaroop states that he does not press substantial questions of law 3, 4 and 5. Statement accepted.

5. Tax Case Appeals stand disposed of accordingly. There shall be no order as to costs.

(K.R.SHRIRAM, C.J.)　　(SUNDER MOHAN J.)

24-06-2025

Index: Yes/No
Neutral Citation : Yes/No

1 [2016] 74 taxmann.com 274 (Karnataka)

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To

The Assistant Commissioner Of Income Tax
Company Circle IV(4),
“Aayakar Bhavan”,
Chennai – 600 034.

THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN, J.

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