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T.C.A.No.224 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI

T.C.A.No. 224 of 2014

The Commissioner of Income Tax,
Chennai.

.. Appellant

VS

M/s. Cognizant Technology Solutions India Pvt Ltd ,
30, Whites Road,
Chennai - 600 014 .

.. Respondent

Prayer : Appeal filed under Section 260-A of the Income-Tax Act against the order of the Income-Tax Appellate Madras “C” Bench, Chennai dated 10.02.2012 passed in ITA No.1921/Mds/2010.

For Appellant : Mr.R.Karthik

For Respondent : Mr.Vikram Vijayaraghavan
for M/s Subbaraya Aiyar Padmanabhan

JUDGMENT

(Delivered by Dr. ANITA SUMANTH, J.)

The Revenue is in appeal as against the order of the Income-Tax
Appellate Tribunal (Tribunal / ITAT) dated 10.02.2012, passed in terms of



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the provisions of the Income-Tax Act, 1961 (Act).

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2. The questions of law that have been admitted on 22.08.2014 are as follows:-

“1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that reopening of the assessment was not proper and quashed the assessment proceedings?

2. Whether on the facts and in the circumstances of the case, depreciation on computer software is to be allowed at 25% especially when the amendment laying down the rate of depreciation on computer software @ 60% was prospective in nature and is applicable from the Assessment year 2003 – 04?”

3. We have heard the detailed submissions of Mr.R.Karthik, appearing for the appellant / Revenue and Mr.Vikram Vijayaraghavan, appearing for the respondent / assessee.

4. In respect of assessment year (AY) 2002 – 03, return of income had been filed by the assessee in time. The assessment was picked up for scrutiny and notices were issued to the assessee. One of the items for claim in the return related to the claim of depreciation on computer software, which was at the rate of 60%. The authorized representatives of the assessee and the Chartered Accountant furnished the details called for and the assessment was computed by order dated 17.03.2005 making various additions / disallowances to the income returned, and accepting the claim of depreciation.



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5. The assessment was thereafter the subject matter of suo motu revision under Section 263 of the Act pursuant to an order of the Commissioner of the Income-Tax setting aside the assessment to the extent of determination of computation of exemption under Section 10B of the Act. The claim of depreciation, very much a part of the records and accepted in the scrutiny assessment, was not disturbed by the Commissioner of Income-Tax by exercise of powers under Section 263.

6. While so, notice under Section 148 was issued on 03.03.2009, shy of one month for the expiry of six years from the end of the relevant assessment year. The assessee responded to the notice under Section 148 reiterating the original return filed. The reason for re-assessment related to the claim of depreciation of computer software at the rate of 60%.

7. The assessee / respondent raised objections to both the assumption of jurisdiction as well as to the claim on merits, overruling which, an order of assessment under Section 143(3) read with Section 147 of the Act was passed on 25.11.2009, confirming the proposal for re-assessment.

8. It was the case of the Department that the claim of depreciation at the rate of 60% was incorrect and that the claim to be allowed only to extent of 25%. Reference was made to the amendment in the depreciation schedule as per which software was included within the ambit of higher



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rate of depreciation only from AY 2003 – 04 onwards.

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9. The respondent succeeded both in first and second appeal, the authorities holding that the assumption of jurisdiction by the assessing authority was barred by limitation as full and true disclosures had been made by the assessee at the first instance, assailing which, the present appeal has been filed raising the questions of law extracted in paragraph 2 supra.

10. Mr.Karthik defends the order of assessment pointing out that the assessee would be entitled to higher rate of depreciation only pursuant to the amendment to the depreciation schedule, effective AY 2003 – 04 onwards. That apart, he would submit that there is no discussion in the original order of assessment dated 17.03.2005 in relation to the claim of depreciation. Hence, according to him, the Department is well within its right to have initiated the proposal for re-assessment.

11. He also points out that the order of assessment passed on 05.09.2007 consequent upon the order of revision by the Commissioner of Income-Tax would give rise to a fresh cause of action and the period of limitation must be construed on and from 05.09.2007 onwards and not the date of original assessment on 17.03.2005.

12. Per contra, Mr.Vikram has filed the tax audit report for AY 2001 – 02 to show that there has been consistency in the claim of the



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assessee for depreciation qua computer software. Prior to 2003 – 04, the claim has been consistently made in terms of the entry in the Depreciation Schedule provisions relating to ‘*computer*’ as there had been no separate entry in respect of ‘*computer software*’. This claim of the assessee had not been questioned in any of previous years and hence the assumption of jurisdiction for the present year is incorrect.

13. That apart, the claim had been looked into even at the stage of assessment since the assessment order was passed under scrutiny and there is no merit in the Department stating that the claim had escaped the attention of the assessing officer.

14. We have heard both learned counsel.

15. There is no dispute as far as the dates and events are concerned. The order of assessment passed under Section 143(3) clearly refers to the return of income and the financials that have been looked into in detail. Discussions have taken place with the authorized representatives. The Full Bench of the Delhi High Court in the case of *CIT v Kelvinator of India Ltd.*,¹, holds, based on the presumption under Section 114(e) of the Evidence Act, that a quasi-judicial authority is deemed to have acted in proper exercise of his functions. Such a presumption would arise in the present case as well.

¹ 256 ITR 1
5/9



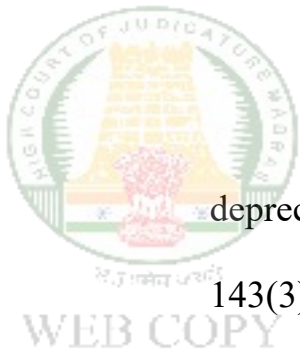
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16. That apart, and more importantly, the return of income filed by the assessee is also full and complete and there is no allegation/assertion that any material indicating escapement of income, has come to the notice of the Revenue subsequently, to justify the re-assessment. Hence, the basis of re-assessment is only the return of income filed by the assessee, accompanied by financials, including the depreciation statement. This is an admitted position.

17. It is also not the case of the Revenue that there is any justification for invoking the extended of limit in this case. The proviso to Section 147 of the Act makes it clear that the benefit of extended period of limitation would be available to the Revenue only in the event that there has been an omission on the part of the assessee to have made a full and true disclosure in the first instance.

18. This is not the revenue's case in the matter before us. In fact, only the financials and the depreciation statement of the assessee have been invoked to make the instant re-assessment. We hence concur with the Tribunal that assumption of jurisdiction is beyond the period of limitation prescribed.

19. Moreover, the limitation would have to be reckoned only from the date of original assessment as the revision of assessment was only for computation of exemption under section 10A/B of the Act. The issue of



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depreciation is not a subject matter of the assessment under Section 143(3) read with Section 263 was passed on 05.09.2007, and hence there is no merger of the order of assessment dated 17.03.2005 with order of assessment dated 05.09.2007 as far as the issue of depreciation is concerned. (See *CIT v Alagendran Finance Ltd.*²)

20. The argument that the limitation must be computed with reference to order of assessment dated 05.09.2007 passed under Section 143(3) read with Section 263 of the Act is rejected. On the basis of the above discussion, Substantial question no.1, is answered in favour of the assessee.

21. As far as the merits of the re-assessment, we find that prior to the amendment of the depreciation schedule qua AY 2003 – 04 to 2005 – 06, the entry that has been invoked by the assessee for the present and previous years for which tax audit report has been placed before us is (2B) of Part A of the depreciation schedule that read '*computers*' eligible at the rate of 60%'.

22. The Audit report reveals that the assessee has been claiming depreciation at the rate of 60% on computer software based on the above entry and no questions have been raised by the Department in this regard.

23. That apart, and as there is no specific entry in respect of



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‘computer software’ for the period prior to 2003 – 04, we are of the view

that there is nothing untoward in the assessee having availed the benefit of 60% depreciation for AY 2002 – 03 based on the entry as it stood then.

Substantial question no.2 is also answered in favour of the assessee.

24. This tax case (appeal) is dismissed. No costs.

[A.S.M, J.] [K.G.T, J.]
19.12.2025

Index: Yes

Neutral Citation: Yes

ssm

To

1.The Commissioner of Income Tax,
Chennai

2.The Income-Tax Appellate Madras “C” Bench,
Chennai.



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