HC-KAR

NC: 2026:KHC:59642-DB
ITA No. 216 of 2011

CNR: KAHC010567892011

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

INCOME TAX APPEAL NO.216 OF 2011

BETWEEN:

1. THE COMMISSIONER OF INCOME-TAX
C.R. BUILDING, QUEENS ROAD,
BANGALORE.

2. THE DEPUTY COMMISSIONER OF INCOME-TAX
CIRCLE -11(2), C.R. BUILDING,
QUEENS ROAD, BANGALORE.

…APPELLANTS

(BY SRI. E.I. SANMATHI, ADVOCATE)

Digitally signed by C K LATHA
Location: High Court of Karnataka

AND:

M/S. CRANE SOFTWARE INTERNATIONAL LTD.,
BLOCK-1, 4TH FLOOR,
SHANKARANARAYANA BUILDING,
BANGALORE – 560 001.

…RESPONDENT

(BY SRI. M. LAVA, ADVOCATE)

THIS ITA IS FILED UNDER SECTION 260A OF THE INCOME TAX ACT, 1961, ARISING OUT OF ORDER DATED 08.02.2011 PASSED IN ITA NO.774/BANG/2010, FOR THE ASSESSMENT YEAR 2005-2006, PRAYING THAT THIS HON'BLE COURT MAY BE

PLEASED TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BANGALORE IN ITA NO.774/BANG/2010 DATED 08.02.2011 CONFIRMING THE ORDER OF THE APPELLATE COMMISSIONER AND CONFIRM THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE-11(2), BANGALORE.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 [**the Act**] impugning an order dated 08.02.2011 passed by the learned Income Tax Appellate Tribunal, Bangalore, in ITA No. 774/Bang/2010 for the assessment year 2005-2006.

2. The Revenue has projected the following questions for consideration of this Court :

> "1. Whether the Tribunal was correct in holding that the payments made by the assessee in terms of the agreement and grant of license towards purchase of software were not in the nature of royalty as defined in Explanation 2 to section 9(1)(vi) of the Act and are not liable to be disallowed u/s.40(a)(i) of the Act for non-deduction of tax, same should be treated as capital and depreciation allowed?
>
> 2. Whether the Appellate Authorities were correct in holding that the payments of Rs.1,36,44,000/- made for marketing support which is in the nature of fees and technical services and liable to deduction of tax at source, comes within the exception provided in section 9(1)(vii)(b) of the Act in view of the judgment of the Apex Court in the case of Ishikawajima which is now amended by introduction of Explanation 2 to section 9 of the Act?"

3. The learned counsel appearing for the Assessee submits that the first question is covered by the decision of a co-ordinate bench of this Court in **Principal Commissioner of Income Tax-7, Bangalore vs Tally Solutions (P.) Limited**[1] and the second question is covered by the decision of this Court in **Jindal Thermal Power Company Limited vs Dy. Commissioner of Income Tax (TDS), Bangalore**[2].

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[1] [2021] 123 taxmann.com 21

[2] ITA No. 3025/2005 and other connected matters decided on 06.08.2026

4. The learned counsel for the Revenue fairly submits that he cannot dispute the same.

5. In view of the above, no substantial question of law arises for consideration of this Court. The appeal is accordingly dismissed.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

CKL
List No.: 1 Sl No.: 40