Principal Commissioner of Income Tax & Anr. v. Allegis Services India Pvt. Ltd.

I.T.A. No. 12/2020

2024:KHC:30968-DB | 2024-08-05

Software purchase disallowance: admitted questions answered for Allegis by following its earlier coordinate Bench decision.

40(a)(ia) | 9(1)(vi) | 260A

Karnataka High Court | Division Bench at Bengaluru | S.G. Pandit | C.M. Poonacha

Assessment years: 2012-13

01 FACTS OF THE CASE

Revenue challenged the Tribunal order of 5 April 2019 in ITA 2199/Bang/2018 for AY 2012-13, affirming relief granted by CIT(A) on 27 April 2018. The questions admitted on 12 October 2020 concerned a return filed on 30 November 2012 after Samsung Electronics and disallowance of Rs.19,50,43,544 for shrink-wrapped software purchases from non-residents without TDS. Question 2 cites sections 40(a)(ia) and 9(1)(vi).

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02 DISCUSSION BY THE HON'BLE COURT

Allegis invoked Engineering Analysis, (2021) 125 taxmann.com 42 (SC), and its own coordinate Bench decision in ITA 40/2019, described in the source as dated 17 April 2021. Revenue referred to Supreme Court review petitions, accepted coverage of question 1, but said question 2 depended on individual facts. The Court nevertheless treated the appeal as covered by the earlier Allegis decision.

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03 JUDICIAL DECISION

The appeal was disposed of following the coordinate Bench decision in Allegis. Both substantial questions were answered in favour of the assessee and against Revenue.

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04 OUTCOME / IN WHOSE FAVOUR

The assessee retained its relief against the challenged disallowance. The Court neither remanded the second question nor reserved an express liberty to review in its operative paragraph.

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05 EXPERT COMMENTS

AKHB EXPERT COMMENTS — editorial analysis, distinct from the Court's findings.

The actual reasoning is the application of an earlier Allegis decision — Although Engineering Analysis was cited, the operative paragraph expressly relies on the coordinate Bench judgment in the same taxpayer's case. This is a precedent-based disposition, not a fresh examination of licence terms. Its useful proposition is that the admitted questions were resolved for this assessee on that basis; the source does not justify a blanket rule for every software purchase.

Revenue's qualified concession must remain qualified — Revenue accepted that question 1 was covered but maintained that question 2 was fact-specific. The note should not convert that position into a concession on every issue. Equally, the final paragraph answers the substantial questions for the assessee without a remand. A practical reading must preserve both the qualified argument and the broader operative result.

Do not import a reservation or silently repair the statutory citation — The mention of pending review petitions is an argument recorded at the hearing, not an express condition attached to relief. Unlike an order granting conditional review liberty, this disposition contains no such clause. Separately, the reference to section 40(a)(ia) alongside non-resident payments is the question's own wording; consulting the underlying record is necessary before substituting another disallowance provision.

Source: PDF p.3

SOURCE & VERIFICATION

Karnataka High Court original judgment - verified repository copy

Complete 5-page supplied source; all pages read.

All 5 original pages read and visually inspected; all five panels audited.

Open cited source rendition

All 5 PDF pages reviewed; actual SHA-256: cccbe994dbd386314f46c45af8e8041b7b57bf730e9e5bd322c1d65efb47b29e. Original record ID retained; no merger inferred from shared source or connected appeals.

STATUTORY SCOPE

Question 2 expressly identifies section 40(a)(ia), despite describing payments to non-residents. That source wording is retained, not silently replaced with a different provision. No current-law equivalence is asserted.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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