IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF APRIL, 2024

PRESENT

THE HON'BLE MR JUSTICE S.G.PANDIT

AND

THE HON'BLE MR JUSTICE C.M. POONACHA

INCOME TAX APPEAL NO. 444 OF 2022

BETWEEN:

1. THE COMMISSIONER OF INCOME TAX
INTERNATIONAL TAXATION, 4TH FLOOR
BMTC BUILDING, 80 FEET ROAD
KORAMANGALA
BENGALURU - 560 095

2. THE DEPUTY DIRECTOR OF INCOME TAX
CIRCLE 1(1) PRESENT ADDRESS
DCIT, INTERNATIONAL TAXATION, CIRCLE 1(1)
4TH FLOOR, BMTC BUILDING
80 FEET ROAD, KORAMANGALA
BENGALURU 560 095

...APPELLANTS

(BY SRI. Y.V.RAVI RAJ., ADVOCATE)

Digitally signed by V MANJUSHA BAI
Location: High Court of Karnataka

AND:

M/S MPHASIS LTD
BAGMANE WORLD TECHNOLOGY CENTRE
WTC 3, BLOCK B, 1ST FLOOR, K R PURAM
DODDENEKUNDI
BENGALURU 560 001

...RESPONDENT

(BY SRI MANISH KANTH, ADVOCATE FOR
MS. TANMAYEE RAJKUMAR., ADVOCATE)

THIS INCOME TAX APPEAL IS FILED UNDER SEC.260-A OF INCOME TAX ACT 1961 PRAYING TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN AND ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU IN IT(IT)A NO.16/BANG/2014 DATED 17/01/2022 FOR ASSESSMENT YEAR 2007-2008 ANNEXURE-C AND CONFIRM THE ORDER OF THE APPELLATE COMMISSIONER CONFIRMING THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, INTERNATIONAL TAXATION, CIRCLE-1(1), BENGALURU.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, ***S G PANDIT J.,*** DELIVERED THE FOLLOWING:

JUDGMENT

1. Heard Sri Y.V.Ravi Raj, learned Counsel appearing for the appellants and Sri Manish Kanth, learned Counsel for Ms. Tanmayee Rajkumar, learned counsel for the respondent.

2. This appeal is by the revenue challenging the order dated 17.01.2022 in IT(IT)A No.16/Bang/2014 of the Income Tax Appellate Tribunal, Bengaluru, relating to the assessment year 2007-2008.

3. The following substantial questions of law have been raised by the appellants in the above appeal:

> *"1. Whether the Tribunal was right in concluding that the orders passed u/s.201 were barred by limitation on the basis of "reasonable time limit" when no time limit has been prescribed by the Parliament in case of non-residents?*

2. Whether Tribunal was correct in considering the "reasonable time limit" on the basis of judgment of Hon'ble High Court of Delhi vide [2016] Bharti Airtel Ltd. Vs.UOI (taxmann.com 256) and not on the basis of legislation as it exists?

3. Whether Tribunal is justified in ignoring the memorandum to Finance Bill 2009 clearly states that no time limits are prescribed in case where deductee is a non-resident?

4. Whether Tribunal's order can be said as perverse in nature in holding that no proceedings under section 201 of the Act were pending before the Assessing Officer as on 01.04.2010 and by the time the proceedings under section 201 of the Act were initiated by issuing notice under section 201 of the Act on 05.02.2013, it was already become barred by limitation, therefore orders passed under section 201(1) and 201(1A) are invalid when the orders were passed in accordance with parameters set out in said sections and when no time limit has been prescribed by the Parliament in case of non-residents?"

4. It is brought to our notice that the above substantial questions of law are answered by the High Court of Delhi in the case of ***Bharti Airtel Ltd. and Another vs. Union of India and Another [2016 SCC OnLine Del 6338]***. Subsequently, this Court by following the above cited order of the High Court of Delhi has disposed of several appeals and one such appeal is ITA No.5/2023 disposed of on 06.02.2023.

5. In view of the above, this appeal is dismissed. The substantial questions of law are answered in favour of the Assessee and against the Revenue.

Sd/-
JUDGE

Sd/-
JUDGE

hkh.