IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF AUGUST, 2024

PRESENT

THE HON'BLE MR JUSTICE S.G.PANDIT

AND

THE HON'BLE MR JUSTICE C.M. POONACHA

INCOME TAX APPEAL NO. 810 OF 2018

BETWEEN:

1. THE PR. COMMISSIONER OF INCOME TAX, CIT (A)
   5TH FLOOR, BMTC BUILDING,
   80 FEET ROAD, KORMANGALA,
   BENGALURU - 560 095.

2. THE DEPUTY COMMISSIONER OF INCOME-TAX,
   CIRCLE - 3(1)(1),
   2ND FLOOR, BMTC BUILDING,
   80 FEET ROAD, KORMANGALA,
   BENGALURU - 560 095.

...APPELLANTS

Digitally signed by BHARATHI S
Location: HIGH COURT OF KARNATAKA

(BY SRI. SUSHAL TIWARI, ADVOCATE)

AND:

M/S. MISYS SOFTWARE SOLUTIONS
INDIA PVT. LTD.,
EAGLE RIDGE, EGL BUSINESS PARK,
INTERMEDIARY RING ROAD,
BENGALURU - 560 071
PAN: AAACK 9067G

...RESPONDENT

(BY SRI. TANMAYEE RAJKUMAR., ADVOCATE)

THIS ITA / INCOME TAX APPEAL IS FILED UNDER SEC.260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 01/06/2018 PASSED IN IT(TP)A NO.306/BANG/2014, FOR THE ASSESSMENT YEAR 2008-2009 PRAYING TO 1. FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE. 2. ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU IN IT(TP)A NO. 306/BANG/2014 DATED 01/06/2018 FOR ASSESSMENT YEAR 2008-2009 ANNEXURE-C AND CONFIRM THE ORDER OF THE APPELLATE COMMISSIONER CONFIRMING THE ORDER PASSED BY THE ASST. COMMISSIONER OF INCOME TAX, CIRCLE-3(1)(1), BENGALURU.

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

CORAM: HON'BLE MR JUSTICE S.G.PANDIT
and
HON'BLE MR JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE C.M. POONACHA)

The present appeal is filed by the revenue under Section 260A of the Income Tax Act, 1961 challenging the order dated 01.06.2018 passed in IT (TP) A No.306/ Bang/2014 by the Income Tax Appellate Tribunal.

2. Heard the submissions of the learned counsel Mr.Sushal Tiwari for the revenue and the learned counsel Mr.Tanmayee Rajkumar for the assessee.

3. The above appeal was admitted by this court vide order dated 25.02.2019 to consider the following substantial question of law:

> *(i) Whether, the Tribunal, on the facts and in the circumstances of the case, is right in law in holding that the income earned by assessee through on-sight development of software would be eligible for education under Section 10A of the Act by relying upon the decision of this Hon'ble High Court in case of Mphasis Ltd which has not reached finality and conditions for availing benefit under Section 10A are not satisfied in case of assessee as for on sight work is concerned which is nowhere related to work done in STP Units in India?*

4. It is submitted that the issue that arise for consideration in the present appeal is covered by a co-ordinate bench judgment of this court in the case of ***COMMISSIONER OF INCOME TAX-III VS. M/S MPHASIS***

SOFTWARE & SERVICE INDIA (P.) LTD., (2015) 62 TAXMANN.COM 165 (KARNATAKA). It is further submitted that the principle of law laid down by the coordinate bench court in the case of ***MPHASIS*** (supra) has been affirmed by the Hon'ble Supreme Court vide order dated 20.09.2021 passed in SLP (C) Diary No.29199/2019.

5. In view of the aforementioned, the substantial questions of law are answered in favour of the assessee and against the revenue.

6. Accordingly, the appeal is disposed of.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(C.M. POONACHA)
JUDGE

SS
List No.: 1 Sl No.: 53