IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF FEBRUARY, 2025

PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE G BASAVARAJA

INCOME TAX APPEAL NO.204 OF 2022

BETWEEN:

1. PRINCIPAL COMMISSIONER OF INCOME TAX-7
BMTC COMPLEX, KORAMANGALA,
BENGALURU.

2. THE DEPUTY COMMISSIONER
OF INCOME TAX CIRCLE -7(1)(1),
BMTC COMPLEX, KORAMANGALA,
BENGALURU.

...APPELLANTS

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

AND:

M/S TECNO TREE CONVERGENCE LTD.,
394-PHASE – IV, UDYOG VIHAR,
GURGAON - 122 001.
PAN NO - AAACL 7345L

...RESPONDENT

(BY SRI. K.R. VASUDEVAN, ADVOCATE)

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LAKSHMINARAYAN N
Location: High Court
of Karnataka

THIS INCOME TAX APPEAL UNDER SEC. 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 03/07/2019 PASSED IN ITA NO.1519/BANG/2017, FOR THE ASSESSMENT YEAR 2010-2011, PRAYING TO SET ASIDE THE APPELLATE ORDER DATED 03/07/2019 PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, BENGALURU, IN APPEAL PROCEEDINGS NO. ITA NO.1519/BANG/2017 FOR THE ASSESSMENT YEAR 2010-2011 AS SOUGHT FOR IN THIS APPEAL.

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

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT
AND
HON'BLE MR JUSTICE G BASAVARAJA

ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE KRISHNA S DIXIT)

This appeal by the Revenue seeks to call in question Income Tax Appellate Tribunal's order dated 3.7.2019, whereby Revenue's ITA Nos.1447-1448/Bang/2017 for the Assessment years 2010-11 and 2011-12 having been negatived, the Coordinate Appeals of the Assessee in ITA Nos.1519-1520/Bang/2017 for the same Assessment years have been allowed and relief has been granted to him.

2. The Revenue in the Appeal Memo has framed three Substantial Questions of Law which read as under:

> *"1. "Whether on the facts and circumstances of the case, the Tribunal was right in law in setting aside disallowance made under section 40(a)(ia) of the Act in respect of commission payment by holding that the provisions of section 195 are not applicable in the facts of present case ignoring that assessee had failed to establish nature of payments and even*

during the appellate proceedings, the assessee had not submitted complete details about the nature of services rendered by the payees for which commission has been paid and whether this would fall beyond the scope for free for technical services?"

2. "Whether on the facts and circumstances of the case, the Tribunal was right in law in holding that the nature of commission payments are not in dispute when the assessing authority has clearly disputed the same and made disallowance under section 40(a)(ia) of the Act since all the conditions set out in said provision was fulfilled?

3. "Whether on the facts and circumstances of the case, the Tribunal was right in law in law in setting aside computation of export turnover done by assessing authority even when the same was in accordance with provisions of section 10A(3) of the Act read with circular dated 28/1/2002 as assessee failed to deposit export proceeds in time"?"

3. After service of notice, respondent-Assessee having entered appearance through his counsel, resists the appeal contending that the first two Substantial Questions of Law have already been answered against the Revenue in **ITA No.834/2018** between ***PRINCIPAL COMMISSIONER OF INCOME TAX vs. M/S. TECNOTREE CONVERGENCE LTD.***, disposed off on 7.6.2021 and that in the said case,

the same Assessee was a party. She further contends that even the third Substantial Question of Law has been answered in favour of the Assessee in ***WIPRO LTD. vs. DEPUTY COMMISSIONER OF INCOME TAX,*** **382 ITR 179**.

4. Despite submission, learned panel counsel is not in a position to differentiate the cases cited from the fact matrix of the case in appeal. Like cases are to be treated alike, is a norm obtaining in judicial process.

In view of the above, appeal being unworthy of merits, is liable to be and accordingly dismissed, costs having made easy.

Sd/-
(KRISHNA S DIXIT)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE

DR
List No.: 1 Sl No.: 10