IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF SEPTEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE S.G.PANDIT

INCOME TAX APPEAL NO. 147 OF 2024

BETWEEN:

1. THE PR. COMMISSIONER
   OF INCOME TAX-2,
   NO.355, AAYAKAR BHAVAN,
   M.K.ROAD, MUMBAI-400 020.

2. THE DEPUTY COMMISSIONER
   OF INCOME TAX, CENTRAL CIRCLE -1(3),
   PRESENT ADDRESS, THE ASST.
   COMMISSIONER OF INCOME TAX,
   CIRCLE-2(2)(1), NO.545,
   AAYAKAR BHAVAN,
   M.K.ROAD, MUMBAI-400 020.

…APPELLANTS

(BY SRI. Y.V.RAVIRAJ, ADVOCATE)

AND:

M/S. LTI MINDTREE LTD.,
(SUCCESSRO M/S. MINDTREE LTD.),
BALLARD ESTATE,
MUMBAI-400 001,
REP. BY ITS MANAGING DIRECTOR.

…RESPONDENT

(BY SRI.CHYTHANYA.K.K, SENIOR COUNSEL
ALONG WITH SRI. TATA KRISHNA, ADVOCATE)

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF THE INCOME TAX ACT, 1961, PRAYING TO (I) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW (II) ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU IN C.O.NO.1/BANG/2023 DATED 23.02.2023 FOR ASSESSEMENT YEAR 2014-2015 ANNEXURE-A CONFIRMING THE ORDER OF THE APPELLATE COMMISSIONER AND CONFIRM THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-1(3), BENGALURU AND ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 23.07.2025, COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **JAYANT BANERJI J.,** DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
AND
HON'BLE MR. JUSTICE S.G.PANDIT

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE JAYANT BANERJI)

The present Income-Tax Appeal has been filed under Section 260-A of the Income Tax Act, 1961[1] seeking to challenge the order of the Income Tax Appellate Tribunal[2]

[1] Act

[2] ITAT

dated 23.02.2023 in C.O.No.1/Bang/2023 (in ITA No.1068/BANG/2022).

2. The Assessee-Respondent is said to be a Company in the business of Software Development, Consultancies etc. For Assessment Year 2014-15, the Return of Income was filed on 27.11.2014 declaring income of Rs.33,22,30,58,230/- under the provisions of the Income-tax Act and Rs.5,63,74,68,310/- under Section 115JB of the Act. The case was selected for scrutiny and notice under Section 143(2) of the Act was issued on 01.09.2015. The assessment was concluded under Section 143(3) by making certain additions/disallowances to the total income. On conclusion of the assessment, the claim of depreciation of Rs.28,67,245/- on goodwill was denied; the claim of allowances towards provisions of discounts of Rs.29,00,00,000/- without considering the enhanced income for deduction under Section 10AA of the Act was denied; Insurance Charges of Rs.2,53,00,297/- from export turn-over in computing under Section 10AA of the

Act was excluded; and the Telecommunication Charges of Rs.7,98,45,983/- from export turnover in computing deductions under Section 10AA of the Act, was excluded.

3. Aggrieved by the Assessment Order, the respondent-assessee filed an appeal before the Commissioner of Income Tax (Appeals)[3] who by order dated 28.09.2022, partly allowed the appeal. Aggrieved by the same, the petitioners filed appeal before the ITAT and the assessee filed cross-objection. The ITAT dismissed the appeal filed by the petitioners by relying on the assessee's-respondent's own case for Assessment Year-2004-05 and 2009-10. The cross-objection filed by the assessee-respondent was allowed.

4. The submission on behalf of the petitioner is that the ITAT erred in holding that provision for discount is an allowable expense in the current year. It is stated that the Tribunal erred in holding that provision for discount is allowable when the same is contingent in nature.

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[3] CIT (A)

5. The point to be considered is whether the provision for discount, for the Assessment Year 2014 - 2015 return of income is allowable expense.

6. The assessment order for the Assessment Year 2014 - 2015 reflects the consideration of the Assessing Officer on the issue of provisions for discount. It was noted that during the year, the assessee had debited a sum of Rs.29.00 crores towards provision for discount, which had not been added back by the assessee. After being given the opportunity to explain the same, on behalf of the favourable order for the Assessment Years 2004-2005 to 2007-2008 on that issue, the Assessment Officer observed that the department had not accepted that decision and had appealed to the High Court on the issue. Therefore, it was held that to maintain consistency with the earlier Assessment Years, the expenditure was considered to be contingent in nature and was disallowed and added back to total income. Penalty proceedings were also directed to be initiated.

7. The assessee challenged the aforesaid assessment order by means of an appeal before CIT (A) After noting the submission made on behalf of the appellant as far as the issue of disallowing discount for the Assessment Year 2014-2015, it was noted that on identical facts for Assessment Year 2004-2005 the appeal of the appellant was allowed by CIT (A) and the appeal of the revenue on this issue was dismissed by the ITAT by the order of 31.10.2012. Considering the above, the decision of ITAT on this issue in appellant's own case on identical facts, the disallowance made by the Assessment Officer was directed to be deleted and the appeal on this issue was allowed.

8. Against the order of the CIT (A), the revenue filed an appeal before the ITAT, Bengaluru "C" Bench, Bengaluru which was numbered as ITA 1068/BANG/2022 (AY 2014-15).

9. The ITAT noted that on identical facts, the Bengaluru Bench of the ITAT in the assessee's own case

for the Assessment Year 2004-2005 had accepted the claim of the assessee that provision for discount is an allowable expense. In that proceeding, the departmental representative had submitted that the assessee was following the mercantile system of account and there was no scientific or systematic method followed by the assessee for making the provision for discount and therefore the same cannot be allowed. The submission was that no such expenditure was incurred by the assessee during the year under consideration and therefore, the provision created was a contingent liability which was not allowable under the Act. On behalf of the assessee the submission was that the assessee gave discount to the customers based upon the volume of the sale and after reaching a specified target. The assessee had to make a provision for discount to be paid to the customer after the target was achieved. Since the revenue was earned during the relevant assessment year, but, the discount was paid often after the target was achieved, in some cases after the end of the financial year, provision

was made for discount by the assessee. It was noted by the ITAT that the provision for discount had been discharged fully in the subsequent years which showed that the assessee was making the provision (for discount) on a scientific and specific method. It was argued on behalf of the assessee. The contention on behalf of the assessee pertaining to Assessment Year 2004-2005 was agreed to by the ITAT that following the matching principle, expenses relating to discount accruing during the year had to be provided for in the relevant financial year itself. The provision for discount had been fully discharged in subsequent years as observed by the CIT (A) which showed that the method adopted by the assessee for making the provision was scientific and based on the material. It was further noted that the Assessing Officer had himself allowed such provision for discount in subsequent assessment years and thus the finding of the CIT (A) was upheld.

10. After noting the order of the ITAT in respect of the provision of discount for the assessment year 2004-

05, it was further noted that the ITAT for the Assessment Year 2009-2010, had accepted the claim of the assessee for the provision of discount as an allowable expenditure against which the department had filed an appeal before the jurisdictional High Court in Income Tax Appeal No.55/2017, but, the issue relating to provision for discount was not assailed in that appeal before the High Court.

11. Having perused the record of this case, we find that it is the case of the assessee that provision for discount was accepted by the revenue as an allowable expense for the period even after the Assessment Year 2004-05. It is not the case of the revenue that the provision for discount had not been discharged fully in the year subsequent to Assessment Year 2014-2015. Therefore, the stand of the revenue before this Court is inexplicable and contrary to the own stand of the revenue in the Assessment Year 2004-05 and thereafter.

12. Under the circumstances, we are of the considered opinion that no substantial question of law arises in the instant case that would merit an answer.

This appeal is accordingly, dismissed.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(S.G.PANDIT)
JUDGE

BVK