IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2025

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C M JOSHI

INCOME TAX APPEAL NO. 113 OF 2025

BETWEEN:

1. PR. COMMISSIONER OF INCOME TAX
(INTERNATIONAL TAXATION)
KORMANAGALA
BANGALORE

2. THE ASSISTANT COMMISSIONER
OF INCOME TAX
INTERNATIONAL TAXATION
CIRCLE 1(2) KORMANAGLA
BANGALORE

…APPELLANTS

(BY SRI SANMATHI E.I., ADVOCATE)

Digitally signed by AMBIKA H B
Location: High Court of Karnataka

AND:

1. M/S SYNA MEDIA LIMITED
ONE LONDON ROAD
STAINES UPON THAMES LONDAN
MIDDLESEX, TW 184 EX
UNITED KINGDOM

…RESPONDENT

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A of INCOME TAX ACT 1961, PRAYING TO DECIDE THE FOREGOING QUESTION OF LAW AND OR SUCH OTHER QUESTIONS OF LAW AS MAY BE FORMULATED BY THE HON'BLE COURT AS DEEMED FIT

AND SET ASIDE THE APPELLATE ORDER DATED 13.12.2023 PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, BANGALORE AS SOUGHT FOR, IN THE RESPONDENT-ASSESSEE'S CASE, IN APPEAL PROCEEDINGS IN IT(IT)A NO. 940/Bang/2023 FOR A.Y. 2021-22 (ANNEXURE-A) AND GRANT SUCH OTHER RELIEF AS DEEMED FIT.

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

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 [**the Act**] impugning a common order dated 13.12.2023 passed by the Income Tax Appellate Tribunal [**ITAT**] in IT(IT)A No.940/Bang/2023 and S.P. No.41/Bang/2023. The present appeal is confined to the order insofar as it relates to IT(IT)A No.940/Bang/2023 in respect of Assessment Year [**AY**] 2021-22.

2. The respondent [**Assessee**] had preferred the said appeal against the order dated 27.09.2023 passed by the ITO (International Taxation), Circle 1(2), Bengaluru [**AO**] in respect of the AY 2021-22. The Assessee is a company incorporated in

United Kingdom and the dispute relates to the amount of ₹14,27,24,656/- received by the Assessee during the financial year relevant to AY 2021-22. Whilst, the Assessee claimed that the said receipts were not chargeable to tax under the Act, the AO held that the said amounts which were received for supply of software license and hardware as well as provision for support services constituted royalty under the India-UK Double Taxation Avoidance Agreement.

3. The Assessee provides advanced and secure video solutions for cloud services, middleware platforms, IPTV, DTH, cable and OTT Pay TV providers. It had received the aggregate amount of ₹14,27,24,656/- from its various customers, which has been summarized in a tabular statement in paragraph 3.3 of the impugned order. The same is reproduced below:

Name of the customer	Revenue Earned in Rs.
GTPL Hathway Limited	48,66,517
Atria Convergence Technologies Limited	23,94,880
Den Networks Limited	3,11,35,803
Dish TV India Limited	1,49,65,000
Hathway Digital Limited	2,89,29,092
Star India Private Limited	63,86,620
Culver Max Entertainment Private Limited	49,86,404
Tata Play Limited	4,90,60,340
Total	14,27,24,656

4. The agreement entered into between the Assessee and one of the customers (agreement with DEN - Digital Entertainment Networks Private Limited) indicates that the Assessee had granted a licence to DEN subject to the terms and conditions as set out therein. The licence is non-exclusive and non-transferable licence for use of NDS Software and NDS Hardware, third party hardware and third party software in accordance with the conditions set out therein. The AO had also noted that the licensee was also entitled to keep two backup copies of NDS software and third-party software, albeit only as a part of disaster recovery program as expressly permitted in law. The agreements entered into by the Assessee with other service recipients is in terms, which are materially similar to the terms and conditions of the agreement between the Assessee and DEN.

5. It is apparent from the nature of services that there was no transfer of any copyright or intellectual property right [**IPR**] in the proprietary software and hardware of the Assessee. In the given facts, the learned ITAT had accepted that the receipts could not be construed as royalty.

5. The issue is covered by the decision of the Supreme Court in ***Engineering Analysis Centre of Excellence Private Limited v. Commissioner of Income-Tax and another: (2021) 125 TAXMANN.COM 42 (SC).*** The ITAT also noted that a similar issue was considered in the Assessee's case (in IT ITA No.363/Bang/ 2017 for AY 2006-07) and the Assessee's appeal was allowed in terms of an order dated 12.11.2021. The ITAT had reproduced the relevant contents of the said order and it concluded that the Assessee's appeal was covered by the said decision.

6. In our view, the controversy raised is no longer *res integra* as the same is squarely covered by the decision of the Supreme Court in ***Engineering Analysis Centre of Excellence Private Limited*** *(supra).* There is no material to indicate that there is any transfer of IPR in the software that would entitle the Assessee's customers in India to exploit such IPR for commercial purposes. The appeals in the Assessee's own case, in respect of AY 2012-13 (being ITA No.109/2024) and in respect of AY 2014-15 (ITA No.698/2023) were dismissed by a Co-ordinate Bench to this Court (Principal Commissioner of Income Tax v. M/s Synamedia Limited':

NC:2025:KHC:32476-DB and NC:2025:KHC:31121-DB) also involved similar questions.

7. In view of the above, no substantial question of law arises for consideration in this case. The appeal is, accordingly, dismissed

8. Pending application stands disposed of.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C M JOSHI)
JUDGE

AHB
List No.: 1 Sl No.: 7