IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF JANUARY, 2015

PRESENT

THE HON' BLE MR. JUSTICE N.KUMAR

AND

THE HON' BLE MR. JUSTICE B. VEERAPPA

Income Tax Appeal 189/2014 C/w.
Income Tax Appeal Nos.188/2014 & 190/2014

ITA No.189/2014
BETWEEN:

1. Commissioner of Income Tax-III,
   C.R. Buildings,
   Queens Road,
   Bangalore-560 001

2. Deputy Commissioner of Income,
   Circle-12(2),
   Bangalore

... Appellants

(By Sri E.I. Sanmathi, Advocate)

AND:

M/s. Quest Informatics Pvt. Ltd.,
No.960, II Main Road,
IV Block, Rajajinagar,
Bangalore-560 010

... Respondent

(By Sri Chythanya K.K., Advocate)

This ITA is filed under Section 260-A of the Income Tax Act, 1961 arising out of Order dated 06.12.2013 passed in ITA No.647/Bang/2012, for the assessment year 2008-09 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 to set aside the appellate order dated 06.12.2013 passed by the ITAT, 'A' Bench, Bangalore in appeal proceedings No. ITA No.647/Bang/2012 for assessment year 2008-09.

ITA No.188/2014

BETWEEN:

1. Commissioner of Income Tax-III,
C.R. Buildings,
Queens Road,
Bangalore-560 001

2. Deputy Commissioner of Income,
Circle-12(2),
Bangalore

... Appellants

(By Sri E I Sanmathi, Advocate)

AND:

M/s. Quest Informatics Pvt. Ltd.,
No.960, II Main Road,
IV Block, Rajajinagar,
Bangalore-560 010

... Respondent

(By Sri Chythanya K.K., Advocate)

This ITA is filed under Section 260-A of the Income Tax Act, 1961 arising out of Order dated 06.12.2013 passed in ITA No.640/Bang/2012, for the assessment year 2007-08 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 to set aside the appellate order dated 06.12.2013 passed by the ITAT, 'A' Bench, Bangalore in appeal proceedings No. ITA No.640/Bang/2012 for assessment year 2007-08.

ITA No.190/2014

BETWEEN:

1. Commissioner of Income Tax-III,
C.R. Buildings,
Queens Road,
Bangalore-560 001

2. Deputy Commissioner of Income,
Circle-12(2),
Bangalore

... Appellants

(By Sri E.I. Sanmathi, Advocate)

AND:

M/s. Quest Informatics Pvt. Ltd.,
No.960, II Main Road,
IV Block, Rajajinagar,
Bangalore-560 010

... Respondent

(By Sri Sri Chythanya K.K., Advocate)

This ITA is filed under Section 260-A of the Income Tax Act, 1961 arising out of Order dated 06.12.2013 passed in ITA No.181/Bang/2013, for the assessment year 2009-10 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 to set aside the appellate order dated 06.12.2013 passed by the ITAT, 'A' Bench, Bangalore in appeal proceedings No. ITA No.181/Bang/2013 for assessment year 2009-10.

These Income Tax Appeals coming on for Admission this day, N. Kumar, J., delivered the following:

JUDGMENT

As a common question of law is involved in all these three appeals and the assessee is also the same and the orders pertain to different assessment years, they are taken up for consideration together and disposed of by this common order.

2. The substantial question of law raised in these appeals is as under:

> *"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the*

> *STPI unit established by the assessee for which 10A deduction is claimed, was not formed by splitting up or reconstruction or transfer of used assets of an existing unit, and consequently without appreciating the fact that as per Section 10A the assessee is not eligible for 10A deduction if the STPI unit is not a new undertaking but formed by splitting up of existing unit and reconstruction of business already in existence?"*

3. The assessee is an Indian Company engaged in the business of computer software development and business processing out source. During the financial year 2005-2006 the assessee was running its business from a non-STPI unit under a rented premises. In this period the party has applied for permission to set up the STPI unit at ground floor of the said premises. The STPI authorities granted approval for setting up of the STPI unit for development of computer service/IT Enabled

Services (ITES) 31.02.2006. The assessee started the business in the newly set up unit during the financial year 2006-2007. The assessee also continued to carryout its business from non-STPI unit also. Separate books of accounts were maintained by the assessee for the STPI unit and non-STPI unit. In respect of STPI unit the claim for reduction under Section 10A made by the assessee was rejected on the ground that STPI unit is found by splitting of the existing unit. In appeal, on appreciation of the material on record, the said order was set aside and the benefit under Section 10A was extended to the STPI Unit and the Revenue preferred an appeal before the Tribunal which has confirmed the same.

4. This Court had an occasion to consider the similar question in the case of ***Commissioner of Income-tax, Central Circle, Bangalore v. Wipro GE Medical System Ltd reported in (2014) 226 Taxman***

156 (Karnataka), and in the case of ***COMMISSIONER OF INOCME TAX & ANR. vs MAXIM INDIA INTEGRATED CIRCUIT DESIGN (P) LTD.,*** reported in (2011) 202 TAXMAN 365 (Kar) and ***COMMISSIONER OF INCOME TAX & ANR. vs. EXPERT OUTSOURCE (P) LTD.,*** reported in ***(2013) 358 ITR page 518 (Karn)***.

5. The law laid down in the aforesaid cases squarely applies to the facts of this Case. Therefore, the findings recorded by both the appellate authorities are in accordance with law. Thus, the substantial question of law raised in these appeals is answered in favour of the assessee and against the revenue and the appeals are dismissed.

Sd/-
JUDGE

Sd/-
JUDGE

Sbs*