



\$~2

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decision delivered on: 24.03.2021*

+ **ITA 66/2021**

PR. COMMISSIONER OF INCOME TAX – 04, NEW DELHI

..... Appellant

Through: Mr. Raghvendra Kishore Singh, Sr.
Standing Counsel for Revenue.

Versus

HCL COMNET SYSTEMS AND SERVICES LTDRespondent

Through: Mr. Ajay Vohra, Sr. Advocate. with
Mr. Aditya Vohra, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J. (ORAL):

1. This appeal is directed against the order dated 16.10.2019 passed by the Income Tax Appellate Tribunal [hereafter referred to as the “Tribunal”] rendered in ITA 4807/Del/2016 concerning the assessment year (in short ‘AY’) 2009-2010.

2. The substantial questions of law suggested by the revenue for being framed and adjudicated upon by this Court are as follows:

“a) *Whether in the facts and circumstances of the case and in law. ITAT misinterpreted the scope of Section 14A(1) of the Act and erred in holding that Section 14(A) can only be invoked if the Respondent has earned exempted income during the assessment year ignoring the fact that*



Section 14A doesn't lay down such requirement and the only precondition for invoking Section 14A is that there must be "expenditure incurred in relation to such income which does not form part of the total income under this Act"?

- b) Whether in the facts and circumstances of the case and in law, ITAT erred in interpreting the Circular No. 5 of 2014 of the CBDT which clarifies the true scope and meaning of Section 14 A of the Act?*
- c) Whether in the facts and circumstances of the case and in law, ITAT failed to appreciate that the AO, having regard to the accounts of the Respondent, was not justified with the correctness of such claim of the Respondent in respect of such expenditure in relation to income which does not form part of the total income under this Act?*
- d) Whether in the facts and circumstances of the case and in law, ITAT erred in deciding upon the true nature of the license fee paid to the Department of telecommunication by the assessee, which clearly established that the expenditure was a capital expenditure and wrongly relied upon the decision in CIT V Bharti Hexacom Limited 221 Taxman 323(Delhi)?*
- e) Whether in the facts and circumstances of the case and in law. ITAT erred in holding that the exemption under section 10A of the Act should not be computed after excluding telecommunication expenses and foreign currency expenditure from the export turnover?"*

3. In view of the decision rendered in ITA No.81/2021 today i.e., 24.03.2021, these questions of law as suggested by the revenue cannot be entertained. The reasons *qua* the same are given in the judgment rendered in ITA No.81/2021.



3.1 In brief, the questions of law as suggested by the revenue stand covered by various judgments of either this Court or the Supreme Court.

4. The appeal is, accordingly, dismissed.

RAJIV SHAKDHER, J

TALWANT SINGH, J

MARCH 24, 2021/pmc

[Click here to check corrigendum, if any](#)

सत्यमेव जयते