

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री संजय अरोड़ा, लेखासदस्य एवं
श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

**BEFORE SHRI SANJAY ARORA, ACCOUNTANT MEMBER AND
SHRI GEORGE MATHAN, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.737/Mds/2017

निर्धारण वर्ष /Assessment Year: 2011-12

Shri Chittazhi Gokuldas Mukundan,
Plot No.37, 38, Hridyam,
Sasivaradhan Nagar Main Road,
C.T.O. Colony, West Tambaram,
Chennai-600 063.

Vs. The Income Tax Salary Ward
I(3), The Income Tax Office,
130-b, Mudichur Road,
Tambaram, Chennai.

[PAN: ABTPG 4640 G]

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr.Avinash Wadhwani, Adv.

प्रत्यर्थी की ओर से /Respondent by

: Mr.Shaji P. Jacob, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 08.06.2017

घोषणा की तारीख /Date of Pronouncement

: 08.06.2017

आदेश / O R D E R

PER GEORGE MATHAN, JUDICIAL MEMBER:

ITA No.737/Mds/2017 is an appeal filed by the assessee against the Order of Commissioner of Income Tax (Appeals)-10, Chennai, in ITA No.111/14-15/CIT(A)-10 dated 14.02.2017 for the AY 2011-12.

2. Mr.Shaji P. Jacob, Addl. CIT represented on behalf of the Revenue and Mr.Avinash Wadhvani, Adv. represented on behalf of the assessee.

3. It was submitted by the Ld.AR that the assessee is an employee of M/s.Cognizant Technologies India Pvt. Ltd. It was a submission that the assessee had received the right to purchase share options in M/s.Cognizant, USA in 2005-2007. It was a submission that during 2011-12, the assessee exercises his right to sell these share options in NASDAQ as postponement any further would deprive of him of his right in the scheme. The assessee had offered the profits generated from the sale of the share option as capital gains in the return submitted. It was a submission that the AO had treated the same as perquisite and taxed the same. It was a submission that the share options could not be considered as security as there is no employer and employee relationship between the assessee and M/s.Cognizant, USA. It was a submission that the gains were liable to be taxed only under the head capital gains.

4. In reply, the Ld.DR submitted that under identical circumstances, the Co-ordinate Bench of this Tribunal in the case of Soundarrajan Parthasarathy v. DCIT reported in (2016) 159 ITD 0021 (Chennai) has held that the stock appreciation rights received by the assessee to be considered as perquisites in the hands of the assessee company or benefits in lieu of salary for the services rendered. It was however fairly agreed by the Ld.DR that if the assessee has paid the tax on the stock

appreciation rights received by the assessee in USA on the value of the very same stock appreciation rights, then he would be entitled to the benefit of such taxes paid in USA.

5. In reply, the Ld.AR submitted that this Tribunal in the case of Soundarrajan Parthasarathy v. DCIT reported in (2016) 159 ITD 0021 (Chennai) has not considered the fact that the stock appreciation rights was not in respect of the employer company but it was in respect of a completely unrelated foreign company.

6. We have considered the rival submissions. It is an undisputed fact that the assessee has received certain amounts on transfer of stock appreciation rights in M/s.Cognizant Techlonogy Solutions Corporation, USA. The amount has been received by the assessee though his employer M/s.Cognizant Technologies India Pvt. Ltd. This being so, as the assessee has received the payment from his employer on account of the scheme offered by his employer, we are of the view that the same is liable to be treated as benefit in lieu of salary for services rendered or perquisite. Admittedly, the Ld.AR has also not been able to tell us as to what is the nature of the payment, and why the assessee's employer has made the payment to the assessee on account of the scheme launched by it, deducting tax at source thereon regarding it as salary income? This being so, respectfully following the decision of the Co-ordinate Bench of this Tribunal in the case of Soundarrajan Parthasarathy referred to supra

which is on identical facts and on account of the same scheme introduced by M/s.Cognizant Technologies India Pvt. Ltd., the findings of the Ld.CIT(A) on this issue stands confirmed.

7. In the result, the appeal filed by the assessee is **dismissed**.

Order pronounced in the Open Court on June 08, 2017, at Chennai.

Sd/-

(संजय अरोड़ा)

(SANJAY ARORA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: June 08, 2017.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF