



2025:KER:31368

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

WP(C) NO. 39276 OF 2016

PETITIONER:

SUNTEC BUSINESS SOLUTIONS PRIVATE LIMITED
321, NILA, TECHNOPARK CAMPUS,
THIRUVANANTHAPURAM - 695 581, REPRESENTED BY ITS CHIEF
FINANCE OFFICER MR.SURESH RAO V.R.

BY ADVS.
SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURRYAN THOMAS
SRI.RAJA KANNAN

RESPONDENTS:

- 1 THE UNION OF INDIA
REPRESENTED BY THE SECRETARY, MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE), NORTH BLOCK, NEW DELHI-110001.
- 2 THE AUTHORITY FOR ADVANCE RULINGS (INCOME TAX),
5TH FLOOR, NDMC BUILDING, SATYA MARG, CHANAKYAPURI,
NEW DELHI - 110 021, REPRESENTED BY ITS SECRETARY.



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3 DEPUTY COMMISSIONER OF INCOME TAX
 CIRCLE - 2(1), AAYAKAR BHAVAN, KOWDIAR,
 TRIVANDRUM - 695 003.

BY ADVS.
CHRISTOPHER ABRAHAM
P.R.AJITH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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**SATHISH NINAN &
SHOBA ANNAMMA EAPEN, JJ.**

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W.P.(C) No.39276 of 2016

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Dated this the 10th day of April, 2025

J U D G M E N T

Sathish Ninan, J.

The issue involved in the writ petition is with regard to the applicability of Section 40(a)(i) of the Income Tax Act in respect of transactions between the petitioner and a non-resident supplier.

2. The petitioner is an Indian Company. It had business transactions with M/s Nuwaza Software JT, Dubai, a non-resident company. The petitioner approached the Authority for Advance Ruling for its ruling on the taxability of the transaction. The Authority for Advance Rulings rejected the application.

3. Challenging the order of rejection by the Authority for Advance Rulings, the petitioner approached this Court in this writ petition. In the meanwhile, since the assessment proceedings had commenced, this



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Court permitted the assessment proceedings to go on, but provisionally.

4. In the course of the assessment proceedings, the claim of the petitioner was rejected by the assessing authority.

5. Challenging the assessment order the petitioner has filed Ext.P9 appeal before the Commissioner of Income Tax (Appeals). In the appeal the petitioner has urged grounds with regard to the taxability of the transaction. The appeal is pending before the authority.

6. We have heard learned counsel on either side.

7. The appeal against the assessment is pending before the CIT(Appeals). As was noticed supra, therein the petitioner has urged his contention with regard to the taxability of the transaction under Section 40(a) (i) of the Act.

8. Both sides agree, that it would be sufficient if the contention based on Section 40(a)(i) of the Act is considered by the CIT(Appeals) in the pending appeal, on



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its merits. We are of the opinion that such course could be adopted. This writ petition need not be kept pending any further.

Resultantly, the writ petition is disposed of directing the Commissioner of Income Tax(Appeals) to consider the petitioner's claim with regard to the taxability of the transaction in question under Section 40(a)(i) of the Act, on its merits.

Sd/-
SATHISH NINAN
JUDGE

Sd/-
SHOBA ANNAMMA EAPEN
JUDGE

kns/-

//True Copy//

P.S. To Judge

APPENDIX OF WP(C) 39276/2016

PETITIONER EXHIBITS

- EXHIBIT P1. THE TRUE COPY OF THE APPLICATION DATED 4/12/2014 FILED BY THE PETITIONER U/S.245Q(1) OF THE ACT, BEFORE THE 2ND RESPONDENT
- EXHIBIT P2. TRUE COPY OF THE NOTICE DATED 10/9/2014 ISSUED BY THE ASSISTANT COMMISSIONER OF INCOME TAX, THIRUVANANTHAPURAM FOR THE A.Y. 2013-14.
- EXHIBIT P3. THE TRUE COPY OF THE PROCEEDINGS DATED 11/4/2016 OF THE 2ND RESPONDENT IN AAR NO.1670/2015.
- EXHIBIT P4. THE TRUE COPY OF THE INTERIM ORDER DATED 17/8/2016 PASSED BY THIS HONOURABLE COURT IN WPC NO.23128/2016.
- EXHIBIT P5. THE TRUE COPY OF THE LETTER DATED 2/12/2016 ISSUED BY THE 3RD RESPONDENT FOR THE AY. 2014-15.
- EXHIBIT 6. THE TRUE COPY OF THE LETTER DATED 10/11/2016 SUBMITTED BY THE PETITIONER BEFORE THE ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 1(1) THIRUVANANTHAPURAM.
- EXHIBIT P7. THE TRUE COPY OF THE LETTER DATED 6/12/2016 FILED BY THE PETITIONER IN RESPONSE TO EXT.P5 LETTER.
- Exhibit P8 THE TRUE COPY OF THE ASSESSMENT ORDER DATED 27.12.2016 ISSUED BY THE DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE-2 (1) THIRUVANANTHAPURAM UNDER SECTION 143 (3) OF THE ACT, FOR THE A.Y.2014-15.
- Exhibit P9 THE TRUE COPY OF THE APPEAL MEMORANDUM (FILED THROUGH ONLINE MODE) DATED 27.1.2017, AND THE ACCOMPANYING STATEMENT OF FACTS, AND GROUNDS OF APPEAL (FILED THROUGH ONLINE MODE) BY THE PETITIONER FOR THE A.Y. 2014-15.

- Exhibit P10 THE TRUE COPY OF THE ADDITIONAL GROUNDS OF
APPEAL DATED, 22.2.2021, FILED THROUGH
ONLINE, MODE, IN SUPPORT OF THE GROUNDS OF
APPEALS.
- Exhibit P10 A THE TRUE COPY OF THE DETAILED SUBMISSIONS
(WITHOUT ANNEXURES) DATED NIL, FILED THROUGH
ONLINE MODE, IN SUPPORT OF THE GROUNDS OF
APPEALS.
- Exhibit P11 THE TRUE COPY OF THE NOTIFICATION DATED
1.9.2021 ISSUED BY THE MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE, CBDT.
