IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 27.03.2015
ITA No. 416 of 2014 (O&M)

Commissioner of Income Tax, Faridabad

----Appellant

Versus

M/s Motorola India Electronics Pvt. Ltd.

-----Respondent

Coram: Hon'ble Mr. Justice S.J. Vazifdar, Acting Chief Justice
Hon'ble Mr. Justice Harinder Singh Sidhu

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

Present: Mr. Tajender K. Joshi, Advocate
for the appellant.
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S.J. VAZIFADAR, A.C.J. (Oral)

CM-26009-CII-2014

For the reasons recorded in the application, the delay of 113 days in re-filing the appeal, is condoned.

Civil Misc. Application is allowed.

ITA No. 436 of 2014

This appeal is against the order dated 28.06.2013 passed by the Income Tax Appellate Tribunal, New Delhi (for short 'the Tribunal') dismissing the appellant's appeal against the order dated 19.03.2012 passed by the Commissioner of Income Tax (Appeals). The matter pertains to assessment year 2003-04.

2. The Commissioner of Income Tax (Appeals) and the Tribunal held that

there was no justification for initiating the re-opening of proceedings under Sections 147 and 148 of the Income Tax Act, 1961 (for short 'the Act'). The Commissioner of Income Tax (Appeals) has dealt with the matter in considerable detail.

3. The respondents had disclosed all relevant material the respondent had filed a copy of the assessment order dated 27.03.2006 earlier passed under Section 143(3) of the Act. The note enclosed with the return of income made it clear that the expenditure incurred on software purchased during the relevant year had been treated as revenue expenditure, which was in accordance with the order of the Commissioner of Income Tax (Appeals) for the previous assessment year 1996-97 in the respondent's own case. The respondents had submitted before the Assessing Officer that the expenditure on purchase of software was a revenue expenditure in nature and had also filed all necessary details as regards the accounts. The re-opening was based only on a change of opinion.

4. It is not even contended that any material has been withheld or suppressed by the respondents inadvertently or otherwise. No new material was relied upon in respect of the impugned proceedings. Nor is it suggested that the assessing officer did not notice the relevant material while making the assessment order.

5. In the circumstances, no substantial question of law arises.

The appeal is therefore dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

27.03.2015
Atul