IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.07.2016

CORAM

THE HONOURABLE MR. JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

Tax Case Appeal No.424 of 2016

The Commissioner of Income Tax,
Chennai. .. Appellant/Appellant

Vs.

M/s.Anabond Ltd.,
Type II, Dr.V.S.I., Estate, Thiruvanmiyur,
Chennai - 600 041. .. Respondent/Respondent

PRAYER:Appeal filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "A" Bench, Chennai, dated 17.7.2015 passed in I.T.A.No.1275/Mds/2015 preferred against the order of the Commissioner of Income Tax (Appeals)-I, in ITA No.128/13-14/A1 (New No.ITA3/CIT(A)-1/2013-2014, dated 30.01.2015 and preferred against the order of Deputy Commissioner of Income Tax, Company Circle-1(1), Chennai, dated 28.03.2013 made in GIR/PAN AX-4282,AACC/A4158Q for the Assessment year 2010-2011.

For Appellant : Mr.Arun Kurian Joseph
Junior Standing Counsel for I.T.

JUDGMENT

(Judgment of the Court was delivered by S.MANIKUMAR, J.)

This Appeal has been filed against the order of the Income Tax Appellate Tribunal, Madras "A" Bench, Chennai, dated 17.7.2015 passed in I.T.A.No.1275/Mds/2015 preferred against the order of the Commissioner of Income Tax (Appeals)-I, in ITA No.128/13-14/A1 (New No.ITA 3/CIT (A)-1/2013-2014, dated 30.01.2015 and preferred against the order of Deputy Commissioner of Income Tax, Company Circle(1), Chennai, dated 28.03.2013 made in GIR/PAN AX-4282, AACC/A4158Q for the Assessmen year 2010-2011.

2. The substantial questions of law raised in the instant Appeal are:-

> "1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the other income received from the Meghalaya Unit should not be excluded from the profits while

computing deduction u/s.80IC even though it cannot be said to have been derived from the industrial undertaking from the manufacture of articles or goods?

2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the apportionment of expenditure made by the AO on R & D in relation to 80IC unit at Meghalaya?

3. Is not the finding of the Tribunal bad especially when the manufacturing activity done at Meghalaya unit is adhesive as per Form 3 CM and 3 CL wherein one of the object of the scientific research mentioned as Adhesive and there is no clear nexus between the R & D expenditure and the manufacturing activity done at the Meghalaya unit?

4. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in treating the expenditure on ERP software as revenue expenditure and not capital especially when the usage of the software would upgrade the computers and will render an enduring benefit to the assessee?

3. On this day, when the matter came up for hearing, Mr.Arun Kurian Joseph, learned Standing Counsel appearing for the appellant submitted that the monetary effect in the instant Appeal is Rs.18,00,000/-, squarely falls within the Circular No.21 of 2015, issued by the Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, dated 10.12.2015 and as per the instructions of the Department seeks permission to withdraw the Appeal. The learned Standing Counsel also submitted that liberty may be granted to the appellant/revenue to revive the tax case appeal if it is found that they had been withdrawn, inadvertently, even though they fall under the exceptions mentioned in Paragraph 8 of the Circular.

4. In view of the said submissions made by the learned Standing Counsel for the appellant/revenue, the present Tax Case Appeal is dismissed as withdrawn leaving the substantial questions of law open. No costs. It is also made clear that it would be open to the appellant/revenue to revive the Tax Case Appeal if it is found that they had been withdrawn, inadvertently, even though they fall under the exceptions

mentioned in Para 8 of the Circular, within a period of twelve weeks from today.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

asvm

To

1. The Commissioner of Income Tax,(Appeals)I,
Chennai 600 034.

2. The Income Tax Appellate Tribunal,
Madras Á'Bench, Chennai.

3. The Deputy Commissioner of Income Tax,
Company Circle-1(1), Chennai.

1 cc to Mr.T.Ravikumar, Advocate, sr.37308

T.C.A.No.424 of 2016

gj ii co
kra 25.07.2016