IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.06.2018

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THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

and

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

T.C.(A). No.177 of 2010

Commissioner of Income Tax I,
Chennai IV.
.. Appellant

vs.

M/s.Radaan Media Works (India) Ltd.,
10, Paul Appasamy Street,
T.Nagar, Chennai - 17. .. Respondent

Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal "A" Bench, Chennai dated 15.05.2009 passed in I.T.A.No.1990/Mds/2008, against the order dated 19.03.2008 in ITA No.177/2007-2008 by the Commissioner of Income Tax (Appeals) VI 121 Mahathma Gandhi Road Chennai 600 034 against the Assessment order dated 27.12.2007 in PAN/G.I.R.No.AABCR3815L by the Joint Commissioner of Income Tax media range 121 M.G.Road New Block Chennai 600 034.

For Appellant : Mr.M.Swaminathan

For Respondent : Mr.A.S.Sriraman
for Mr.S.Sridhar

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

Aggrieved over the order passed by the Tribunal, by formulating the following substantial questions of law in respect of the assessment year 2005-2006, the Revenue has preferred the present appeal:

"1.Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the assessee was entitled to depreciation on the non-complete fee under Section 32 of the Income Tax Act?

2.Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the assessee was entitled to depreciation on brand equity under Section 32 of the Income Tax Act?

2.Heard the learned counsels appearing for the parties.

3.When the matter is taken up for hearing, learned counsels appearing for the parties would submit that the issue involved in this appeal is covered by the decision of this Court in Commissioner of Income Tax, Chennai Vs. M/s.Radaan Media Works India Ltd., Chennai - 17 (T.C.A. No.1175 of 2008 dated 08.08.2017) in favour of the assessee in its own case and against the Revenue. In the said decision, this Court has held as under:

"27. Coming to Tax case (Appeal) No.1175 of 2008, the question before us is whether brand equity would be an intangible asset eligible for depreciation in terms of Section 32(1)(ii) of the Act that defines intangible assets in the following terms;

"(ii) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998,

Owned, wholly or partly, by the assessee and used for the purposes of the business or profession, the following deductions shall be allowed."

28.The learned Standing counsel for the Department fairly admitted that the brand equity of a sum of Rs.75 lakhs valued at a sum of Rs.75 lakhs would be an intangible right coming within the purview of 'business or commercial rights' of a similar nature. He also brought to our notice the decision of this High Court in the case of Penta Media Graphics and Delhi High Court in the case of Sharp Business Systems Vs. Commissioner of Income Tax, that support the stand of the assessee.

29. The substantial questions of law in T.C.No.1175 of 2008 are thus decided in favour of the assessee and against the Revenue holding that brand equity constitutes an intangible asset in terms of Section 32(1)(ii) of the Act upon which depreciation is liable to be granted. "

4.Thus, in view of the same, the Tax Case Appeal stands dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Income Tax Appellate Tribunal,
"A" Bench, Chennai.

2. The Commissioner of Income Tax (Appeal) VI,
121 M.G.Road, Chennai 34.

3. The Joint Commissioner of Income Tax,
Media Range,
121 M.G.Road, Chennai 34.

4. The Commissioner of Income Tax,
Chennai IV.

+1cc to Mr.M.SWAMINATHAN, Advocate, S.R.No.41704
+1cc to Mr.S.SRIDHAR, Advocate, S.R.No.41735

T.C.(A).No.177 of 2010

NA(CO)
TR(16/07/2018)