IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-544-2017 (O&M)
Date of decision:- 01.03.2018

The Principal Commissioner of Income Tax, Faridabad

...Appellant

Versus

M/s Marathon Electric India Pvt. Ltd. (formerly known as GE Motors India Pvt. Ltd.), Faridabad

...Respondent

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr. Tajender K. Joshi, Advocate,
for the appellant.

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S.J. VAZIFDAR, C.J. (ORAL)

This is an appeal against the order of the Income Tax Appellate Tribunal deleting the penalty imposed by the Assessing Officer and upheld by the CIT (Appeals). The matter pertains to the assessment year 2005-2006.

2. The order of the Tribunal deals with the matter in considerable detail. The Tribunal found that the parent company of the assessee waived a loan of ₹ 3.41 crores which the assessee reduced from the gross value of assets from the schedule of fixed assets under the Companies Act, 1956. The Tribunal noted that all the facts in relation thereto were disclosed by the assessee. The assessee took a position which the Tribunal held was a possible one. The Tribunal further held that merely because the judgements ultimately took a contrary view it would not warrant the imposition of penalty. There were no mala-fides found on the part of the assessee.

3. Similarly, the Tribunal held that the penalty was also imposed on a disallowance of ₹ 2,35,100/- being software expenses. The issue related to the purchase of software by the assessee to carry out its business activities in a more efficient manner. The assessee claimed the same to be revenue expenditure, whereas the Assessing Officer treated the same as capital in nature. The Tribunal noted that a judgement of the Division Bench of the Delhi High Court in *CIT Vs GE Capital Services Ltd.* (2008) 300 ITR 420 (Del) supported the assessee's view. The Tribunal found that it was a debatable question and held, therefore, that the imposition of penalty was not justified.

4. In these circumstances, there is no warrant for interfering with the exercise of discretion by the Tribunal.

5. The appeal is, therefore, dismissed.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(AVNEESH JHINGAN)
JUDGE

01.03.2018
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No