IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case (Appeal) No.1 of 2009

M/s.DXN Herbal Manufacturing (India) Pvt. Ltd.,
R.S.No.141/4 & 142/5,
Whirlpool Road, Thiruvandarkoil,
Pondicherry. .. Appellant/Appellant

-vs-

The Income Tax Officer,
Ward 1(1), Puducherry. .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 31.07.2008 on the file of the Income Tax Appellate Tribunal Chennai 'C' Bench, Chennai, in I.T.A.No.1483/Mds/2007 for the assessment year 2004-05 against the Order of the Commissioner of Income Tax (Appeals) XI, Chennai -34, made in ITA No.446/06-07, dated 29.03.2007 against the Order of the Income Tax Officer, Ward I(1), Pondicherry, made in PANo/GI.No.16-D/AABCD4141M,dated 10.02.2006 for the Assessment Year 2004-05.

For Appellant : Mr.K.Ravi

For Respondent : Mr.T.R.Senthil Kumar,
Senior Standing Counsel
: assisted by Ms.K.G.Usharani,
Junior Standing Counsel

JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal filed by the appellant/assessee under Section 260A of the Income-tax Act, 1961, is directed against the order dated 31.07.2008, on the file of the Income Tax Appellate Tribunal Chennai 'C' Bench, Chennai, in I.T.A.No.1483/Mds/2007 for the assessment year 2004-05.

2.The above appeal was admitted, on 27.01.2009, on the following substantial questions of law:-

"(i) Whether in the facts and circumstances of the case, the Honourable Income Tax Appellate

Tribunal is right in law in holding there was no mistake apparent from the records which could be rectified under Section 154 of the Income Tax Act, 1961?

(ii) Whether in the facts and circumstances of the case, denying the right to claim deduction under Section 43 B of the Income Tax Act, 1961, when the genuinity of the payment is not disputed and that the allowance of the payment is not debatable in nature?”

3.We have heard Mr.K.Ravi, learned counsel for the appellant/assessee; and Mr.T.R.Senthil Kumar, learned Senior Standing Counsel, assisted by Ms.K.G.Usharani, learned Junior Standing Counsel for the respondent/Revenue.

4.The present appeal is against the order passed by the Tribunal challenging an order passed by the Commissioner of Income-tax (Appeals)-V, Chennai while exercising powers under Section 263 of the Income-tax Act, 1961. The assessee has already got relief in the substantive matter in T.C.(A) Nos.341 and 342 of 2007, dated 21.06.2018 [M/s.DXN Herbal Manufacturing (India) Pvt. Ltd., vs. The Income Tax Officer, Ward-I(1), Puducherry].

5.In the light of the decision in T.C.A.Nos.341 and 342 of 2007, no further orders are required in this tax case appeal and the same is closed leaving the substantial questions of law open. No costs.

abr

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Income-tax Officer, Ward I(1),
Pondicherry.

2.The Commissioner of Income Tax
(Appeals)-IX, Chennai.

3.The Income Tax Appellate Tribunal
Chennai 'C' Bench, Chennai.

T.C.(A) No.1 of 2009

Kak(04.10.2019)