IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2019

CORAM

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

Tax Case (Appeal) No.2152 of 2008

M/s.Diebold Systems Private Limited,
28/3, (Old No.54/3), Ground and 3rd Floor,
Montieth Road, Egmore,
Chennai-600 008. .. Appellant/Appellant

-vs-

The Income Tax Officer (OSD),
Company Circle I (4),
121, Nungambakkam High Road,
Chennai-600 034. .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961 against the order dated 30.04.2008 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench, Chennai in I.T.A.No.882/Mds/2007 for the assessment year 1998-99.

Appeal against the order dated 25/01/2007 made in ITA.No.64/2006-07/A-111 on it file of the Commissioner of Income Tax(Appeals)-III, Chennai for it assessment year 1998-99.

Appeal against it order dated 15/03/2006 made in GIN O/PAN NO AACD3206C on the file of the Income Tax Officer(OSD) Company Circle 1(4) Chennai for it assessment year 1998-99.

For Appellant : Mr.M.P.Senthil Kumar

For Respondent : Ms.R.Hemalatha,
Senior 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 30.04.2008, passed by the Income Tax Appellate Tribunal, Chennai 'A' Bench, in I.T.A.No.882/Mds/2007 for the assessment year 1998-99.

2.The above appeal has been admitted, on 09.01.2009, on the following substantial questions of law:-

"i. Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that reopening of the assessment for the Assessment Year 1998-99 under Section 147 of the Act is valid in law?

ii. Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that the appellant is not entitled to relief under Section 80 IA of the Act in respect of AMC charges, other income and in erroneously adding back interest income?"

3.Heard Mr.M.P.Senthil Kumar, learned counsel for the appellant/assessee; and Ms.R.Hemalatha, learned Senior Standing Counsel for the respondent/Revenue.

4.The above referred substantial questions of law were considered by this Court in the assessee's own case in T.C.(A) No.2180 of 2006 (M/s.Diebold Systems P. Ltd., vs. The Assistant Commissioner of Income Tax) in respect of the first substantial question of law and the appeal was allowed by judgment dated 30.01.2013.

5.So far as the second substantial question of law is concerned, the same was answered against the assessee in the assessee's own case (M/s.Diebold Systems P. Ltd., vs. The Assistant Commissioner of Income Tax) for the assessment year 2001-02 in T.C. (A) No.596 of 2008, dated 26.04.2019.

6.In the light of the above, the appeal filed by the assessee is partly allowed and the first substantial question of law is answered in favour of the assessee and the second substantial question of law is decided against the assessee. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Income-tax Officer (OSD), Company Circle I(4), Chennai.

2.The Commissioner of Income Tax (Appeals)-III,
121, Mahatma Gandhi Road, Chennai-600 034.

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

+1cc to M/s.R.Hemalatha, Advocate SR.No.58792
+1cc to Mr.N.Muthukumar, Advocate Sr.No.59420

RSV(c.o.)/ AKM/26.08.19/2P-6C/