IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case Appeal Nos.452,453,454 & 456 of 2010

Commissioner of Income Tax
Chennai. .. Appellant in all Appeals

Vs.

M/s.Brakes India Ltd. .. Respondent in all Appeals

T.C.A.No.452 of 2010 is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'D' Bench, Chennai, dated 19.06.2009, made in ITA No.1719/Mds/2008.

As against the order dated 29.05.2008 of the Commissioner of Income Tax (LTU Appeals) Large Tax Payer Unit, 1775, Jawaharlal Nehru Inner Ring Road, Anna Nagar, West Extension, Chennai 600 101 made in I.T.A.Nos.8 to 10 & 12/2008-09/LTU(A) as against the order dated 04.01.2008 of the Assistant Commissioner of Income Tax Company Circle I(2), Chennai in PAN NOS.AAACB2533Q/BX1-026 for the Assessment Year 1995-96,1996-97,1997-98 & 2004-05 respectively in TCA Nos.452,453,454 & 456/2010.

T.C.A.No.453 of 2010 is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'D' Bench, Chennai, dated 19.06.2009, made in ITA No.1720/Mds/2008.

T.C.A.No.454 of 2010 is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'D' Bench, Chennai, dated 19.06.2009, made in ITA No.1721/Mds/2008.

T.C.A.No.456 of 2010 is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax

Appellate Tribunal, Chennai 'D' Bench, Chennai, dated 19.06.2009, made in ITA No.1723/Mds/2008.

For Appellant in all Appeals : Mr.T.Ravikumar
Senior Standing Counsel in all

For Respondent in all Appeals : Mr.R.Venkatnarayanan
for Mr.R.Vijayaraghavan in all

COMMON JUDGMENT
(By Dr.Vineet Kothari, J.)

Revenue has filed these Appeals under Section 260-A of the Income Tax Act,1969, raising the following Substantial Question of Law arising from the order of the learned Income Tax Tribunal, dated 19.06.2009, dismissing the Revenue's Appeals for Assessment Years 1995-1996, 1996-1997, 1997-1998 and 2004-2005 :-

> "Whether in the facts and in the circumstances of the case, the Tribunal was right in holding that the Revenue should pay interest on interest, where there is no inordinate delay in payment of refund?"

2. The learned Tribunal, relying upon the earlier decision of the Hon'ble Supreme Court in the case of Sandvik Asia Ltd. Vs. CIT (280 ITR 643) (SC), dismissed the Revenue's Appeals.

3. Learned Senior Standing Counsel for the Appellant/Revenue has submitted before us that the view of Hon'ble Supreme Court in Sandvik Asia Ltd., cited supra, has since been reversed by the Hon'ble Supreme Court in a later decision in the case of CIT Vs. Gujarat Fluoro Chemicals (2013) 358 ITR 291 (SC), in which, taking note of the said decision of Sandvik Asia Ltd., as well as the later amendment of law with effect from 01.04.1989 by insertion of Section 244A of the Act, the Hon'ble Supreme Court has clarified that it is only the interest provided for under Section 244A of the Act, which may be claimed by the Assessee on the refunds, and no other interest can be claimed by the Assessee. Paragraph No. 8 of the said Judgement of the Hon'ble Supreme Court is quoted below for ready reference:-

> "8. Further it is brought to our notice that the Legislature by the Act No. 4 of 1988 (w.e.f. 01.04.1989) has inserted Section 244A to the Act which provides for

interest on refunds under various contingencies. We clarify that it is only that interest provided for under the statute which may be claimed by an assessee from the Revenue and no other interest on such statutory interest.”

4. In view of the very foundation of the order of the learned Tribunal, namely, the earlier Judgement of the Hon'ble Supreme Court in the case of Sandvik Asia Ltd. having been taken away by the later decision of Hon'ble Supreme Court in the case of CIT Vs. Gujarat Fluoro Chemicals, cited above, we remit the matter back to the learned Tribunal to decide the Appeals again in accordance with law, in view of the later decision of the Hon'ble Supreme Court and the amendment of law.

5. Accordingly, these Appeals of the Revenue are disposed of, without answering the aforesaid Question of Law. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dixit

To

1.The Commissioner of Income Tax (LTC Appeals),
Tax Payer Unit,
1775 Jawaharlal Nehre Inner Ring Road,
Anna Nagar West Extension, Chennai 600 101.

2.The Assistant Commissioner of Income Tax,
Company Circle I(2),
Chennai.

3.The Income Tax Appellate Tribunal,
Chennai D Bench, Chennai.

+1 cc to Mr.T.Ravikumar, Standing counsel for I.T SR.No.39604
+4 cc's to Mr.Subbaraya Aiyar Padmanabhan,
Advocate, Sr.No. 40318 to 40321

T.C.A.Nos.452,453,454 & 456/2010

CSL/12.06.2019