In the High Court of Judicature at Madras

Dated : 27.08.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.102 of 2015

Commissioner of Income Tax-2,
121, Mahatma Gandhi Road,
Chennai. ...Appellant/Respondent

Vs

M/s.I.P. Rings Ltd.,
Arjey Apex Centre, No.24, College Road,
Chennai - 600 006.
PAN: AAACM4392C ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 26.09.2014 made in ITA.No.729/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2008-09 against the O/o. Commissioner of Income Tax (Appeals)II, Nungmbakkam Chennai 34 and made in I.T.A. No. 1312/2013-2014 dated 12.12.2013, and order dated 27.12.2010 to Deputy Commissioner of Income Tax, Circle II(3) Chennai 34 in PAN/GIR. No. AAACI0908C.

For Appellant : Mr.Karthik Ranganathan,
SSC assisted by
Mr.S.Rajesh, SC

For Respondent: Mr.R.Venkataraman
for M/s.Subbaraya Aiyar Padmanabhan

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J.)

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel, assisted by Mr.S.Rajesh, learned Standing Counsel appearing for the appellant/revenue and Mr.R.Venkataraman, learned counsel for M/s.Subbaraya Aiyar Padmanabhan, learned counsel appearing for the respondent/assessee.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 26.09.2014 made in ITA.No.729/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2008-09.

3.The appeal was admitted on 03.03.2015 on the following substantial questions of law :

> "1) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in law in holding that the CIT (A) was justified in disallowing 25% of the Royalty expenditure as capital expenditure and allowing balance 75% as revenue in nature without referring the agreements entered between the parties which provides enduring benefits to the assessee and therefore liable to be taxed as capital in nature?
>
> 2) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in following the earlier decision in the assessee's own case for the assessment years 1999-2000 & 2003-2004 to 2005-2006 in ITA.Nos.1716 to 1716/MDS/2010 dated 25.02.2011 contrary to Explanation 3(b) to Section 32(1) of the Income Tax Act, which was inserted by Finance Act, 1998, with effect from 01.04.1999?

4.The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5.In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs.

-s/d-
Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

To

1.The Income Tax Appellate Tribunal,
Chennai 'D' Bench.

2.The Commissioner of Income Tax (Appeals)II
121, Mahatma Gandhi Road
Nungmbakkam, Chennai 34.

3.The Deputy Commissioner of Income Tax
Company Circle III(3) , Chennai 34.

4.The Commissioner of Income Tax-2
121, Mahatma Gandhi Road
Chennai 34.

TCA.No.102 of 2015

RR(CO)
SP(11/11/2019)