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.135 of 2015

Commissioner of Income Tax,
Chennai. ...Appellant/Appellant

Vs.

M/s.Danfoss Industries Ltd.,
296, Rajiv Gandhi Salai (OMR),
Sholinganallur, Chennai - 600 119.
PAN: AABCD0321M ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 22.04.2014 made in ITA.No.493/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2006-07.

TCA.No.135 of 2015 filed against the order passed by the Commissioner of Income Tax(A)(C)-II, Chennai-34, made in ITA.No.401/13-14 dated 31.10.2013 and against the order passed by the Deputy Commissioner of Income Tax Company Range 1(4), Chennai made in PAN/GIR.No.AABCD0321M, dated 20/02/2013.

For Appellant : Mr.T.Ravikumar,
For Respondent : Mr.R.Sivaraman

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel appearing for the appellant/revenue and Mr.R.Sivaraman, 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 22.04.2014 made in ITA.No.493/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2006-07.

3.The appeal was admitted on 06.07.2015 on the following substantial questions of law :

> "i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the software expenses incurred by the assessee were revenue expenditure?
>
> ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in not considering the fact that the software expenses incurred by the assessee resulted in an enduring benefit to the assessee and therefore the same was capital in expenditure?
>
> iii) Whether on the facts and circumstances of the case, the Tribunal was right in overlooking the fact that computer including computer software are assets eligible to depreciation @ 60% under Clause 5 of III of Part A of old Appendix I and New Appendix I under the Income Tax Rules, 1962 and therefore expenses incurred on the same has to be treated as capital expenditure?"

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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax(A)(C)II,
Chennai -34.

3.The Deputy Commissioner of Income Tax,
Company Range, 1(4) , Chennai.

+1 cc to M/s.T.Ravi Kumar,Advocate Sr.No. 73349

AKM/15.10.19/3P-5C /

TCA.No.135 of 2015