IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

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

Tax Case Appeal No.604 of 2014

The Commissioner of Income tax,
Chennai. .. Appellant

-vs-

M/s.Panasonic Home Appliances India
Company Limited,
No.5, Sholavaram Village,
Ponnery Taluk, Chennai-600 067. .. Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 06.01.2012, made in I.T.A.No.1467/Mds/2009 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2004-05,

against the order of the Commissioner of Income Tax (Appeals)-V, Chennai-34 dated 09/07/2008 and made in ITA No.598/06-07 for the Assessment Year 2004-2005,

against the order of the Deputy Commissioner of Income Tax, Company Circle V (1), Chennai, dated 22.12.2006 and made in PAN/GIR No.AAACI1304E for the Assessment Year 2004-2005.

For Appellant : Mr.T.Ravikumar,
Senior Standing Counsel

For Respondent : Mr.R.Venkatanarayana
For M/s.Subbaraya Aiyar
Padmanabhan & Ramamani

JUDGMENT

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

This appeal filed by the Revenue under Section 260A of the Income-tax Act, 1961 is directed against the order dated

06.01.2012, made in I.T.A.No.1467/Mds/2009 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2004-05.

2.The appeal was admitted on 04.03.2015, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the royalty payment at fixed percentage of the net invoice value is to be treated as Revenue expenditure?
>
> (ii) Is not the payment for royalty for use of Technical assistance which is intangible property acquired by the assessee under the head knowhow paid to the foreign collaborators is a capital expenditure and depreciation under Section 32(ii) allowable at 25%?
>
> (iii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the entire royalty payment in respect of electric rice cookers is allowable as revenue expenditure?"

3.Heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant and Mr.R.Venkatanarayana, learned counsel, for M/s.Subbaraya Aiyar, Padmanabhan & Ramamani, for the respondent.

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 08.08.2019 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 'C' Bench,
Chennai.

2.The Commissioner of Income Tax,
Chennai.

3.The Commissioner of Income Tax (Appeals)-V,
Chennai-34.

4.The Deputy Commissioner of Income Tax,
Company Circle V(1), Chennai.

+1cc to Mr.T.Ravikumar, Advocate Sr.72369

T.C.A.No.604 of 2014

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srg 19/11/2019