IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.1.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case (A) Nos.359 to 362 of 2011

Commissioner of Income Tax-I,
Chennai. Appellant

Vs.

M/s.IP Rings Limited,
Arjay Apex Centre,
24, College Road,
Chennai 600 006. Respondent

Tax Cases filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 25.2.2011 made in ITA Nos.1687/Mds/2010, 1688/Mds/2010, 1689/Mds/2010 and 1690/Mds/2010 against the Order of the Commissioner of Income Tax (Appeals), Chennai -34, made in ITA No. dated against the Order of the Income Tax Officer made in the order of commissioner of Income Tax Appeals III, dated 14/07/2010 and made in I.T.A. No. 523/06-07/A-III, 181/07-08/A-III, 495/06-07/A-III, 182/07-08/A-III against the Assessment order of Assistant Commissioner of Income Tax, Company Circle II(3), Chennai dated 18/10/06 made in IX 2-043/AAAC 10908C, dated 27/09/07 and made in AAAC 10908C, dated 01/11/06 in 1x2-043/AAAC 10908C, 289/07 for the assessment year 1999-2000, 2003-2004, 2004-2005 and 2005-2006.



For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

For Respondent : Mr.P.Venkatnarayanan for
M/s.Subbaraya Iyer

COMMON JUDGMENT

(Delivered by DR.VINEET KOTHARI,J)

These Tax Cases have been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 25.2.2011 made in ITA Nos.1687/Mds/2010, 1688/Mds/2010, 1689/Mds/2010 and 1690/Mds/2010, for the Assessment Years 1999-2000, 2003-2004, 2004-2005 and 2005-2006, by raising 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 Commissioner of Income-Tax (Appeals) was justified in restricting the disallowance of royalty payment to the foreign company to 25% only as capital expenditure and allowing 75% of the royalty as revenue expenditure without appreciating that the terms of the agreement conferred an enduring advantage to the assessee and therefore the entire payment fell in the capital field?
>
> (ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not adjudicating the grounds raised by the Revenue to the effect that from the assessment year 1999-2000 the Income Tax Act had been amended by granting depreciation on intangible assets treated as a separate "block of assets" and therefore the decision of the Hon'ble Supreme Court in the case of Southern Switchgear Ltd. (232 ITR 539) was not applicable in the facts of the instant case?"

2. When the matters are taken up for hearing, learned Senior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant cases, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeals filed by the Revenue are dismissed, as withdrawn, keeping open the

substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. Commissioner of Income Tax-I,
Chennai.

2. Income Tax Appellate Tribunal,
'B' Bench, Chennai.

3. The Assistant Commissioner of
Income Tax,
Company Circle II(3),
121, Mahatma Gandhi Road,
Chennai 600 034.

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

+1cc to Mr.Subbaraya Aiyar Padmanabhan, Advocate, S.R.No.6046

TCA Nos.359 to 362 of 2011

GJ(CO)
KKV/16/06/2020