IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

Tax Case (Appeal) No.690 of 2011

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

vs

M/s.Indian Additives ltd.,
Express Highway, Manali,
Chennai 600068 ... Respondent/Appellant

Prayer:Tax Case Appeal filed against the order of the Income Tax Appellate Tribunal Madras "A" Bench dated 17.06.2011 in ITA No.703/MDS/2009 and against the order of the Commissioner of Income Tax (Appeals)-XI Chennai-34 made in I.T.ANo.54/07-08, Tr.No.883/06-07 dated 27.03.2009 for the assessment year 2004-2005 and against the order of the Assistant Commissioner of Income tax Company Circle 11(3), Chennai-34 made in G.I.No./P.A.No.2002-1/AAAC11445C, dated 27.12.2006 for the assessment year 2004-2005.

For Appellant : Mr.Karthik Ranganathan,
Senior Standing Counsel

For respondent : Ms.Sriniranjani,
for Mr.G.Baskar

JUDGMENT

(Delivered by DR.VINEET KOTHARI, J.)

This Tax Case Appeal has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, "A" Bench dated 11.06.2011 in ITA No.703/MDS/2009, by raising the following substantial questions of law:

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that only the lumpsum payment made towards acquisition of technical knowhow from M/s.Chevron Oroite Company LLC, USA could be treated as capital expenditure and the running royalty paid every year on the basis of volume of sales ought to be allowed as Revenue Expenditure, even though both the types of payments were towards acquisition of technical knowhow and the right to exclusive use within India as per the agreement ?”

2. When the matter is taken up for hearing, learned Standing Counsel brought to our notice the Circular issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8 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 case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar

/true copy/
Sub Asst. Registrar

tar
To
1.The Income Tax Appellate Tribunal
'A Bench Chennai

2.The Commissioner of Income tax(Appeals)XI
121 Mahatma Gandhi Road Chennai-34

3.The Assistant Commissioner of Income Tax,
Company Circle 11(3)
121 N.H.Road Chennai-34

+1 cc to Mr.N.Muthukumar Advocate sr29844

Tax Case (Appeal) No.690 of 2011

mr(co)
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