IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2020

CORAM

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

TCA No.683 of 2017

Principal Commissioner of Income Tax 6
No.121, Mahatma Gandhi Road,
Chennai 600 034. ... Appellant

Vs.

M/s. Southern Agrifurane Industries (P) Limited,
M.G.M Centre, No.1, 9th Street,
Dr. Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
PAN: AAG CS 9705 F ... Respondent

Appeal under Section 260A of the Income Tax Act, against the order of the Income Tax Appellate Tribunal Madras 'C' Bench dated 11th January 2017 in ITA No.1577/Mds/2016,

against order of the Commisisone rof Income Tax (Appeals)-15, ITA No.30/CIT(A)-15/14-15, PAN No.AAGCS9705F, Assessment Year 2008-2009, order dated 02/03/2016

against order of the Assistant Commissioner of Income Tax Company Circle VI(3), Chennai, PAN No.AAGCS9705F, Assessment Year 2007-08, order dated 27/02/2014.

For Appellant : Mr.J.Narayanasamy, Sr.S.C.

For Respondent : Mr.S.Sridhar

JUDGMENT

(Delivered by DR.VINEET KOTHARI, J.)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 3 July 2020, by Judges at their respective residences and the counsel, staff of the Court appearing from their respective residences.

2. Heard the learned counsel for the appellant Revenue Mr.J.Narayanasamy and the learned counsel for the respondent Assessee, Mr.Sridhar.

3. By the impugned order dated 11.01.2017, the Tribunal, for the Assessment Year 2008-09, has only remanded the case back to the Assessing Authority for verification of the tax deducted at source on the amount paid by the Assessee for the alleged contract of tie up of manufacture. The amount of trade mark usage fees and TDS in relation thereto is yet to be determined. The Tribunal had merely referred and relied upon the decision of the Kolkota High Court in CIT v. S.K.Telcriwal [361 ITR 432], in para 6 of its order. Since the issue with regard to the applicability of Section 40(a)(ia) of the Act has been remanded back to the Assessing Authority, we do not find any substantial question of law to be arising in the present appeal filed by the appellant Revenue. It is only when the issue regarding the applicability of Section 40(a)(ia) is decided by the authorities again upon such remand, and if either of the parties can be said to be aggrieved, then only, question of law if at all can be said to be arising from the order of the Tribunal. It is not brought to our notice that any such order of Assessing Authority has been passed after such remand or not. Therefore, in our opinion, from the present order of the ITAT by which a remand has been made to the Assessing Authoirty, on the issue involved in the present case, we do not find any substantial question of law arising within the meaning of Section 260A of the Act.

4. The appeal is accordingly disposed of without answering the questions of law raised in the said appeal. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Office of the Commissioner of
Income Tax (Appeals)-15,
Chennai.

2.The Assistant Commissioner Income Tax
Company Circle VI (3), Chennai.

3.The Income Tax Appellate Tribunal,
Madras 'C' Bench, Chennai.

4.The Principal Commissioner of Income Tax 6,
Chennai.

TCA No.683 of 2017

pp[co]
srg 21/10/2020