**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision : 20.2.2020

**CM-27439-CII-2010 in/and
ITA-863-2010 (O&M)**

**The Commissioner of Income Tax, Jalandha-II, Jalandhar
.....Appellant**

Versus

M/s. Evergreen Publications (India)(P) Ltd. ...... Respondent

**CM-6193-CII-2011 in/and
ITA-127-2011 (O&M)**

**M/s. Evergreen Publications (India)(P) Ltd.
.....Appellant**

Versus

**Income Tax Appellate Tribunal, Amritsar Bench, Amritsar
...... Respondent**

ITA-249-2016 (O&M)

**The Pr. Commissioner of Income Tax-2, Jalandhar
.....Appellant**

Versus

M/s. Evergreen Publications (India) Ltd. ...... Respondent

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
: HON'BLE MR.JUSTICE AVNEESH JHINGAN**
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Present : Mr. Vivek Sethi, Sr. Standing counsel with
Mr. Varun Issar, Jr. Standing counsel
for the Revenue.

Mr. Pankaj Jain, Senior Advocate with
Mr. Divya Suri, Advocate
for the Assessee.

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AJAY TEWARI, J. (Oral)
CM-27439-CII-2010 in ITA-863-2010

This is an application for condonation of delay of 8 days delay in re-filing the appeal.

For the reasons recorded in the application, the same is allowed and delay of 8 days in re-filing the appeal is condoned.

CM-6193-CII-2011 in ITA-127-2011

This is an application for condonation of delay of 115 days delay in re-filing the appeal.

For the reasons recorded in the application, the same is allowed and delay of 115 days in re-filing the appeal is condoned.

Main cases

1. Vide this common order we shall dispose of above said three appeals as the common question of law and facts are involved therein. For the sake of convenience, facts are being taken from ITA- 863-2010.

2. The main issue which arises for consideration in this appeal (both on behalf of the revenue as well as the assessee) relates to the difference in connotation between 'work's contract' and 'contract of supply' and consequently, whether the assessee was liable to deduct tax at source or not. Learned Senior counsel appearing on behalf of the assessee states that in fact this issue is academic because the case is tax neutral. Learned Senior standing counsel for the Revenue however states that he would not be in a position to agree with this factual argument and that in case the facts display tax neutral effect the present case be covered

by the decision of the Supreme Court judgment ***M/S. Hindustan Coca Cola Beverage (P) Ltd. vs Commissioner Of Income Tax 2007 (8) SC 463***, if it is. In these circumstances, we deem it appropriate to remand the matters back to the Assessing officer to determine the issue of tax neutrality, leaving to the parties to take further proceeding as per law.

3. All the three petitions stands disposed of.

4. Since the main cases have been decided, the pending application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(AVNEESH JHINGAN)
JUDGE

20.2.2020
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Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No