IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2021

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.No.1374 of 2009

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

Vs.

M/s.AB Mauri India Private Ltd.,
No.2/15, Ganapathy Colony,
Teynampet,
Chennai - 600 018. ... Respondent/Appellant

Tax Case Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai, "A" Bench, dated 10.07.2009 in I.TA.No.1692/Mds/2007, Assessment Year 2003-04 and this Appeal preferred against the Commissioner of Income Tax (Appeals-II), Chennai order dated 11.04.2007 made in ITA.No.255/2006-07/A.III for the Assessment year 2003-04 and against the Assistant Commissioner of Income Tax Company Circle I(1), Chennai -34 order dated 28.03.2006 made in PAN./GIR.No.AABCB0012B/AX6-628 for the Assessment year 2003-2004.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.Venkata Narayanan
for M/s.Subbaraya Aiyar

JUDGMENT
(Judgment was delivered by M.DURAISWAMY, J.)

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.Venkata Narayanan for M/s.Subbaraya Aiyar, learned counsel for the respondent/assessee.

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 10.07.2009 made in I.TA.No.1692/Mds/2007 on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench (for brevity, the Tribunal) for the Assessment Year 2003-04.

3.The appeal was admitted on 14.12.2009 on the following substantial question of law:

> *"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee company was entitled to depreciation under clause (ii) of Section 32(1) of the Income Tax Act on the non complete fee paid to Tracstal Investment P. Limited and other companies, wrongly interpreting the rule of ejusderm generis and considering the non-complete fee as of the same nature of intangible assets like know-how, patents, copyrights, trade arks and other rights of similar nature mentioned in clause (ii) of Section 32(1) of the Income Tax Act ?"*

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 as withdrawn on account of the Low Tax Effect. The substantial question of law framed is left open. In the event the tax effect in this case 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(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal, Chennai, "A" Bench
2.The Commissioner of Income Tax-I, Chennai.
3.The Assistant Commissioner of Income Tax,
Company Circle I(1), Chennai -34.
4.The Commissioner of Income Tax (Appeals)-III, Chennai.

AKM/18.03.21/2P-5C/

T.C.A.No.1374 of 2009