IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

THE HON'BLE MR.JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R.HEMALATHA

Tax Case Appeal No.193 of 2009

M/s.Diebold Systems Private Limited,
28/3, Montieth Road,
Egmore, Chennai – 600 008. ...Appellant

Vs.

The Income Tax Officer (OSD),
Company Circle-I(4),
121, Nungambakkam High Road,
Chennai – 600 034. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "A" Bench, dated 30.04.2008 passed in I.T.A.No.884/Mds/2007 against the order of The Commissioner of Income Tax Appeals-III, 121, Mahatma Gandhi Road, Chennai-34, dated 31/01/2007 passed in ITA.No.270/2005-06/A-III against the order of The Assistant Commissioner of Income Tax, Company circle-1 (4)/(i/c) Chennai dated 18/03/2005 passed in G.I.No.PAN.AAACD3206C for the Assessment year 2002-2003.

For Appellant : Mr.M.P.Senthil Kumar

For Respondent : Mr.T.Ravikumar
Senior Standing Counsel

J U D G M E N T
(Delivered by M.DURAISWAMY, J.)

This appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 30.04.2008 passed by the Income Tax Appellate Tribunal, Madras "A" Bench, ('the Tribunal' for brevity) in I.T.A.No.884/Mds/2007 for the assessment year 2002-03. The above appeal has been admitted on 20.04.2009 on the following Substantial Questions of Law:

"1.Whether on the facts and in the circumstances of the case, the Tribunal is right in law in confirming the disallowance of Rs.9,64,957/- on account of provision for software purchase?

2.Whether on the facts and in the circumstances of the case, the Tribunal is right in law in confirming the disallowance of brokerage/commission amounting Rs.1,01,98,572/- paid by the appellant?"

2. We have heard Mr.M.P.Senthil Kumar, learned counsel for the appellant/assessee and Mr.T.Ravikumar, learned Senior Standing Counsel for the respondent/Revenue.

3. It may not be necessary for this Court to decide the Substantial Questions of Law framed for consideration on account of certain subsequent developments. The Government of India enacted the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) to provide for resolution of disputed tax and for matters connected therewith or incidental thereto. The Act of the Parliament received the assent of the President on 17th March 2020 and published in the Gazette of India on 17th March 2020.

4. We are informed by the learned counsel for the appellant/assessee that the assessee had already been issued with Form-3 on 15.04.2021 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

5. In view of the submission made by the learned counsel for the appellant, the Tax Case Appeal stands dismissed as withdrawn. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. Income Tax Appellate Tribunal,Madras "A" Bench

2. The Income Tax Officer (OSD),
Company Circle-I(4),
121, Nungambakkam High Road,
Chennai – 600 034.

3. The Commissioner of Income Tax Appeals - III
   121, Mahatma Gandhi Road,
   Chennai - 34

4. The Assistant Commissioner of Income Tax,
   Company Circle -1(4)/(i/c)
   Chennai.

+1cc to M/s.N.Muthukumar, Advocate, S.R.No.26458
+1cc to Mr.T.Ravikumar, Advocate, S.R.No.26253

Tax Case Appeal No.193 of 2009

NRL(CO)
RGA(22/07/2021)