IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2021

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Ms.Justice SATHI KUMAR SUKUMARA KURUP

Tax Case Appeal No.1382 of 2010

Commissioner of Income Tax,
Chennai. ...Appellant

Vs

M/s.Indian Additives Limited,
Express Highway,
Manali, Chennai. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 13.11.2009 made in ITA.No.2238/mds/2008 on the file of the Income Tax Appellate Tribunal, 'A' Bench, Chennai for the assessment year 1999-2000, against the order of the Commissioner of Income-Tax(Appeals-III), Chennai-34 in ITA.No.884/06-07/A-III dated 26/08/2008 and arising out of Assessment Order of Assistant Commissioner of Income Tax, Company Circle 11(3), Chennai-34 dated 11/12/2006 in PAN-2002-01/AAAC11445G for the Assessment year 1999-2000, (Status-Company).

For Appellant : Mr.Karthick Ranganathan
Senior Standing Counsel
For Respondent: Mr.G.Baskar

JUDGMENT
(Delivered by T.S.Sivagnanam,J)

This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order 13.11.2009 made in ITA.No.2238/mds/2008 on the file of the Income Tax Appellate Tribunal, 'A' Bench, Chennai (for brevity, the Tribunal) for the assessment year 1999-2000

2.The following two substantial questions of law were raised by the revenue when the tax case appeal was listed for admission:

> "1.Whether, on the facts and in the circumstances of the case, the Income Tax

Appellate Tribunal was right in holding that the "running royalty" paid by the assessee to the foreign company is allowable as revenue expenditure?

2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that interest under Sections 234B and 234C should be levied after allowing MAT credit contrary to the scheme of schedule G to Form 1 viz., the return form prescribed for the companies which clearly gives the order and sequence in which credit for various payments of tax is to be allowed and as per which, MAT credit is to be set off only after TDS, advance tax and self assessment tax?"

3.We have heard Mr.Karthick Ranganathan, learned Senior Standing Counsel for the appellant/revenue and Mr.G.Baskar, learned counsel appearing for the respondent/assessee.

4.By order dated 22.03.2011, the Hon'ble Division Bench entertained the tax case appeal with regard to the first substantial question of law as framed above. With regard to the second substantial question of law, the Hon'ble Division Bench held that the same is covered by the decision of the Hon'ble Supreme Court in the case of Commissioner of Income Tax vs. Tulsyan Nec Ltd. [(2011) 330 ITR 226(SC)]. Thus, the question to be decided in this appeal is question No.1 as framed above. If such is the position, then the tax liability arising out of the said issue is less than the threshold limit. Therefore, the appeal filed by the revenue cannot be proceeded on the ground of low tax effect in terms of Circular No.17/2019 dated 08.08.2019 issued by the Central Board of Direct Taxes, by which, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore.

5.In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to file a petition before this Court to restore the appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

cse

To

1.The Assistant Registrar,
The Income Tax Appellate Tribunal,
'A' Bench, Chennai.

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

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

+1cc to Mr.G.Baskar, Advocate, S.R.No.37495

TCA.No.1382 of 2010

GPL(CO)
CB(18/08/2021)