IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.04.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY

AND

THE HON'BLE MRS.JUSTICE R.HEMALATHA

T.C.A.Nos. 577, 578, 579 & 580 of 2011,
964 of 2015 and 85 of 2018

I.P. Rings Ltd.,
Arjay Apex Centre,
No.24, College Road,
Chennai - 600 006.

Now at D11/12, Industrial Estate,
Maraimalai Nagar - 603 209
... Appellant/Appellant in all TCAs

vs.

The Deputy Commissioner of Income Tax.
Company Circle - II(3),
Chennai - 600 034.
...Respondent/Respondent in all TCAs

Appeals preferred under Section 260A of the Income Tax Act, 1961, against the orders of the Income Tax Appellate Tribunal, Chennai, "B"Bench, dated 25.02.2011 in ITA.Nos.1716, 1717, 1718 & 1719/Mds/2010; against the order of the Income Tax Appellate Tribunal, Chennai, "C"Bench, dated 17.09.2013 in ITA.No. 690/Mds/2013; and against the order of the Income Tax Appellate Tribunal, Chennai, "D"Bench, dated 31.03.2017 in ITA No. 1670/Mds/2014 for the Assessment Years 1999-2000, 2003-2004, 2004-2005, 2005-2006. 2002-2003 and 2009-2010 respectively. Against the order of the commissioner of Income Tax (appeals) III Chennai-34, dated 14.07.2010

in ITA No : 523/06-07/A III
and ITA No : 181/07-08/A III
and ITA No : 495/06-07/A III
and ITA No : 182/07-08/A III

against the order of the Commissioner of Income Tax (Appeals-I), Coimbatore, dated 04.01.2013 in P.A.No./ G.I.R.No.AAAC10908C against the order of the Commissioner of Income Tax (Appeals)-II, Chennai-34, dated 11.02.2014 in ITA No.1669/2013-14 for the Assessment year 1999-00, 2003-04, 2004-05, 2005-06, 2002-03, 2009-10 respectively and against the Assistant Commissioner of Income Tax company circle II (3),Chennai-34, dated 18/10/2006 in GIR/P.A.No.IX2-043/AAAC10908C dated 27.09.2007 in G.I.No/P.A.No.AAAC10908C dated 01.11.2006 in G.I.NO./P.A.No.IX2-043/AAAC10908C, dated 28.09.2007 in G.I.No/P.A.No.IX2-043/AAAC10908C against the order of the Income Tax Appellate Tribunal, Chennai Bench-'A' Chennai, dated 12.06.2008 in ITA No.1299(Mds)/2007 against the order of the A.C.I.T.Co.Circle II (3), Chennai-34 dated 23.12.2011 in PAN/GIR No.AAACI0908C for the Assessment year 1999-2000, 2003-04, 2004-05, 2005-06, 2002-03, 2009-10 respectively.

For Appellant : Mr. Venkat Narayanan
(in all TCAs)

For Respondent : Karthik Ranganathan,
(in all TCAs) Senior Standing Counsel

COMMON JUDGMENT

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

These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) are directed against the orders of the Income Tax Appellate Tribunal, Chennai, "B"Bench, dated 25.02.2011 in ,ITA.Nos.1716, 1717, 1718 & 1719/Mds/2010; against the order of the Income Tax Appellate Tribunal, Chennai, "C"Bench, dated 17.09.2013 in ITA.No. 690/Mds/2013; and against the order of the Income Tax Appellate Tribunal, Chennai, "D"Bench, dated 31.03.2017 in ITA No. 1670/Mds/2014 for the Assessment Years 1999-2000, 2003-2004, 2004-2005, 2005-2006. 2002-2003 and 2009-2010 respectively.

2.The appeals were admitted on the following substantial questions of law:

T.C.A.Nos. 577 to 580/2011 and 964 / 2015

(i.) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the expenditure incurred towards 25% of the Royalty payment made towards right to use the technical know-how granted by the Non Resident is Capital in nature?

(ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in not following the Judgment of the Hon'ble Apex Court in the case of M/s. CIT v. IAEC Pumps Ltd., 232 ITR 316 and CIT v. Panasonic Carbon India Ltd. (Mad) which is applicable to the facts of the case?

T.C.A.No. 577 of 2011

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in confirming the disallowance of sales promotion expenses incurred by the appellant?

T.C.A.No.s 579 & 580 of 2011

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in confirming the disallowance of 50% of sales promotion expenses incurred by the appellant without considering the nature of expenses?

T.C.A.Nos. 577, 579 & 580 of 2011

(iv) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee is not entitled to claim deduction of the actual expenditure incurred towards marketing merely because it had entered into a technical consultancy and marketing services agreement?

T.C.A.No.85 of 2018

(i) Whether the learned Tribunal erred in law treating a percentage fo royalty payment as capital expenditure under section 32 (1) of the Income Tax act, 1961, on the ground that payment o was for a right of user and not for acquisition of an intangible asset?"

3. We have heard Mr. Venkat Narayanan, learned counsel for the appellant and Karthik Ranganathan, learned Senior Standing Counsel for the respondent.

4. 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.

5. We are informed by the learned counsel for the appellant that in respect of T.C.A.No.577 of 2011, the assessee has already been issued with Form - 3 on 26.02.2021 and in respect of T.C.A.Nos.578, 579,580 of 2011, 974 of 2015 and 85 of 2018, the assessee has already been issued with Form - 3 on 20.04.2021, hence, the learned counsel for the appellant seeks permission of this Court to withdraw the appeals.

6. In view of the submission made by the learned counsel for the appellant, the Tax Case Appeals are dismissed as withdrawn. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Rj

To

1. The Deputy Commissioner of Income Tax.
   Company Circle - II(3),
   Chennai - 600 034.
2. The Income Tax Appellate Tribunal,
   Chennai, "B"Bench.
3. The Income Tax Appellate Tribunal,
   Chennai, "C"Bench.
4. The Income Tax Appellate Tribunal,
   Chennai, "D"Bench.
5. The commissioner of Income Tax (appeals) III
   Chennai-34
6. The Commissioner of Income Tax (Appeals-I),
   Coimbatore
7. The Assistant Commissioner of Income Tax Company
   circle II(3), Chennai-34
8. The Income Tax Appellate Tribunal, Chennai Bench-'A'
   Chennai

+3CCs to Subbaraya Ayar, Advocate Sr.Nos.25767, 25771, 25772

T.C.A.Nos.577, 578, 579 & 580 of 2011,
964 of 2015 and 85 of 2018

LN (CO)
A.SK (12.07.2021)