IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM

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

Tax Case Appeal No.317 of 2015

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

Vs.

The Deputy Commissioner of Income Tax,
Company Circle - II(3),
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 "D" Bench, dated 26.09.2014 passed in I.T.A.No.729/Mds/2014, against the order of the Commissioner of Income Tax (A)-II, Chennai, dated 12.12.2013 for the Assessment Year 2008-09 against the Assessment order of the Deputy Commissioner of Income Tax Company Circle -II(3), Chennai-34 dated 27/12/2010.

For Appellant : Mr.R.Venkata Narayanan
for M/s.Subbaraya Aiyar Padmanabhan

For Respondent : Mr.Karthik Ranganathan
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 26.09.2014 passed by the Income Tax Appellate Tribunal, Madras "D" Bench, ('the Tribunal' for brevity) in I.T.A.No.729/Mds/2014 for the assessment year 2008-09. The above appeal has been admitted on 22.07.2015 on the following Substantial Questions of Law:

"1.Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in upholding the order of CIT (Appeals) treating 25% of the Royalty payment made towards right to use the technical know-how granted by the Non Resident as Capital in nature?

2.Whether on the facts and circumstances of the case, the Tribunal was right in treating 25% of the royalty payment as capital expenditure under Section 32(1) when the same is not owned by the appellant and tax was deductible at source on the ground that payment was for right to use and not for acquisition of intangible asset?

3.Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the ratio of judgment of the Hon'ble Apex Court in the case of Southern Switchgears v. CIT 232 ITR 359 (SC) dealing with the initial year of setting up of factory is applicable to the facts of this case?

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

2. We have heard Mr.R.Venkata Narayanan for M/s.Subbaraya Aiyar Padmanabhan, learned counsel for the appellant/assessee and Mr.Karthik Ranganathan, 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 20.04.2021 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. The Registrar,
   Income Tax Appellate Tribunal,
   Madras "D" Bench.

2. The Commissioner of Income-Tax (A)-II,
   Chennai.

3. The Deputy Commissioner of Income Tax,
   Company Circle - II(3),
   Chennai - 600 034.

+1cc to M/s.Subbaraya Aiyar, Advocate Sr.25768

ppa[co]
srg 24/06/2021