IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM

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

T.C.A.Nos.564 and 565 of 2015

The Commissioner of Income Tax,
Chennai.
... Appellant in all appeals

Vs.

M/s.Indian Additives Ltd.
Express Highway, Manali,
Chennai – 600 068.
... Respondent in all appeals

Tax Case Appeals in T.C.A.Nos.564 and 565 of 2015 preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, “A” Bench, dated 06.09.2012 in I.T.A.Nos.1437/Mds/2012 and 1438/Mds/2012, for the Assessment Years 2003-04 and 2005-06 made against the order of the commissioner of income tax (Appeals)-XII, Chennai-34 dated 26.3.2012 vide I.T.A.Nos.115 and 116/2011-12 for the Assessment years 2003-04 and 2005-06 made against the Assessment orders of the Assistant Commissioner of Income-Tax, Company Circle II(3), Chennai-34, dated 31.12.2009 vide PAN GIR No.AAACI1439E for the Assessment year 2003-04 and dated 11.12.2008 GIR No.2002-I/AAACI1445G for the Assessment year 2005-06, respectively.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel
in all appeals

For Respondent : Ms.Sri Niranjani Srinivasan
in all appeals

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

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel for the appellant/Revenue and Ms.Sri Niranjani Srinivasan, learned counsel for the respondent/assessee.

2.The above appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act), are directed against the order dated 06.09.2012 made in I.T.A.Nos.1437/Mds/2012 and 1438/Mds/2012, on the file of the Income Tax Appellate Tribunal, Madras, “A” Bench (for brevity, the Tribunal) for the Assessment Years 2003-04 and 2005-06 respectively.

3.The above appeals were admitted on 18.08.2015 on the following substantial questions of law:

> “1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the royalty payment effected by the assessee to CHEVRON Oronite LLC, USA is revenue expenditure overlooking Section 32(1)(ii) of the Income Tax Act, which stipulated that such expenditure was to be considered as for acquisition of intangible assets?
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> 2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal had enough material to come to the conclusion that the disallowance of royalty payment at 3.5% on the sales was to be allowed as revenue expenditure? and
>
> 3.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not considering the amendment under the Income Tax Act wherein depreciation on intangible assets like license, trade mark, etc., was allowable, which would clearly shows that the payments could be considered as capital in nature and not revenue?”

4.The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 these cases is less than the threshold limit.

5.In the light of the said submissions, the above Tax Case Appeals are dismissed as withdrawn on account of the Low Tax Effect. The substantial questions of law framed are left open. In the event the tax effect in these cases 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 above appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal,
Madras, “A” Bench.

2.The Commissioner of Income Tax, (Appeals)-XII
Chennai-34.

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

+1CC to M/s.Sriniranjani, Advocate, SR.No.30373

T.C.A.Nos.564 and 565 of 2015

AK II(CO)
B.VC (24/08/2021)