IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V. THAMILSELVI

Tax Case Appeal No.158 of 2016

The Commissioner of Income Tax,
Chennai. ... Appellant/Respondent

Vs.

M/s.Redington (India) Ltd.,
SPL Guindy House,
95, Mount Road, Guindy,
Chennai - 600 032. ... Respondent/Appellant

Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "D" Bench, Chennai dated 07.08.2015 passed in I.T.A.No.221/Mds/2013, for the assessment year 2008-09 against the order of Commissioner of Income Tax(Appeals V), Chennai-34, dated 26.10.2012 in CIT(A)-V/ITA:478-2011-12, for the assessment year 2008-09 and arising out of the Assessment order of (Assistant Commissioner of Income Tax-Company Circle V(3), Chennai-34) dated 09.02.2012 in PAN/GI.NO.AABCR0347P.

For Appellant : Mr.T.Ravi Kumar,
Senior Standing Counsel

For Respondent : Mr.R.Venkatanarayanan

J U D G M E N T

(Delivered by M.DURAISWAMY, J.)

The appeal filed by the Department under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 07.08.2015 passed by the Income Tax Appellate Tribunal, Madras "D" Bench, ('the Tribunal' for brevity) in I.T.A.No.221/Mds/2013 for the assessment year 2008-09.

2.On 29.02.2016, the above appeal was admitted on the following Substantial Questions of Law:

> "1)Whether on the facts and circumstances of the case, the Tribunal was right in not appreciating the fact that the name of associate enterprise of the assessee does not constitute its trade mark, which is not identical to that of the assessee for justifying the payment made relating to guarantee commission by the assessee to its associate enterprise who is the registered owner of the trademark?
>
> 2)Is not the finding of the Tribunal bad especially when the assessee is using the trademark since 1993 whereas the associate enterprise was formed only in the year 2005 and therefore, payments made under the Trade Mark Licence fee are not proper?
>
> 3)Whether on the facts and circumstances of the case, the Tribunal was right in deleting the additions made on account of corporate guarantee given by the assessee to its associate enterprise that it is not a international transaction especially when Section 92B of the Income Tax Act was amended by Finance Act, 2012 with effect from 01.04.2012 includes 'guarantee' as an international transaction?
>
> 4)Whether on the facts and circumstances of the case, the Tribunal was right in setting aside the disallowance made under Section 14A and remitting the matter back to the Assessing Officer especially when in the previous year on the same issue the additions were confirmed by the Tribunal and there was no change in the circumstances in the present year?"

3.We have heard Mr.T.Ravi Kumar, learned Senior Standing counsel for the appellant/Revenue and Mr.R.Venkatanarayanan, learned counsel for the respondent/assessee.

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.The learned counsel for the respondent/assessee submitted that the respondent/assessee had availed Vivad Se Vishwas Scheme and that the Department had also issued Form - 3 on 27.01.2021.

6. Since the assessee has been issued with Form - 3, nothing survives for adjudication in the above appeals. Recording the submission made by the learned counsel for the respondent/assessee, the Tax Case Appeals stand disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. Income Tax Appellate Tribunal, Madras "D" Bench, Chennai.

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

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

4.The Assistant Registrar,
Income Tax Appellate Tribunal,
III Floor, Rajaji Bhavan,
Besant Nagar, Chennai-90.

+1cc to M/s.Subbaraya Aiyar, Advocate Sr.No.19731

+1cc to MR.T.Ravi kumar, Advocate Sr.No.19764

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GPL(CO)
NR 16/04/2021