IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.07.2021

CORAM:

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

T.C.A.Nos.525 & 526 of 2016

Commissioner of Income Tax,
Chennai. .. Appellant in both TCAs/Appellant

v.

M/s. Chettinad Morimura Semiconductor
Material Pvt. Ltd.,
37, Old Mahabalipuram Road,
Kazhipattur Village, Padur Post,
Kanchipuram District - 603 103
PAN : AAACC2461Q ... Respondent in both TCAs/Respondent

T.C.A. No.525 /2016 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "B" Bench, dated 19.02.2014 in I.T.A.No.2080/Mds/2013 for the Assessment Year 2005-2006.

T.C.A. No.526/2016 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "B" Bench, dated 19.02.2014 in I.T.A.No.2081/Mds/2013 for the Assessment Year 2006-2007.

against order passed by the Commissioner of Income Tax – (Appeals)I, Chennai-34 in ITA.No.422/08-09/A1 and ITA.No.519/09/-10/A1 dated 20.09.2013 against the order passed by the Assistant Commissioner of Income Tax, Company Circle 1 (3), Chennai in GIR/PAN.No.AAACC2461Q and GIR/PAN.No.AAACC2461Q, dated 22/12/2005 Assessment Year 2005-2006 and 2006-2007.

For Appellant (in both TCAs)	:	Mr.T.Ravikumar Senior Standing Counsel
For Respondents (in both TCAs)	:	Mr. M. Kaushik for Mr. S.Sridhar

COMMON JUDGMENT

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and M. Kaushik, learned counsel for the respondent/assessee.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) are directed against the order dated 19.02.2014 made respectively in ITA.Nos.2080/Mds/2013 & 2081/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai, ''B'' Bench (for brevity, the Tribunal) for the Assessment Years 2005-2006 and 2006-2007.

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

T.C.A. No.525 /2016 :

" (i) Whether in the facts and in the circumstances of the case, the Tribunal was right in law in holding that the expenditure incurred on repairs and maintenance of community has constructed for the villagers in the area was a revenue expenditure eligible for deduction in the hands of the assessee, when the fact remains that construction/maintenance of community hall is not related to the business of the assessee and therefore, not eligible for deduction?

(ii) Whether in the facts and in the circumstances of the case, the Tribunal was right in holding that the expenditure incurred towards filling, levelling and developing of safety area of community hall constructed for villagers in the area is eligible for deduction in the hands of the assessee as revenue in nature when the construction/maintenance of community hall is not related to the business of the assessee and therefore, not eligible for deduction?

(iii) Whether in the facts and in the circumstances of the case, the Tribunal was right in overlooking the fact that in any event the expenditure incurred on the community hall and development of safety area amounted to addition of capital asset and therefore, the expenditure was not revenue in nature?

(iv) Whether in the facts and in the circumstances of the case, the Tribunal was right in holding that the expenditure incurred towards raw material storage yard is revenue expenditure when the said expenditure was incurred for total replacement of the existing storage yard and not for mere setting right defects of existing yard and therefore, oughtto have been treated as capital expenditure resulting in an asset/benefit of enduring nature?

T.C.A. No.526 /2016 :

" (i) Whether in the facts and in the circumstances of the case, the Tribunal was right in holding that the expenditure incurred towards filling, levelling and developing of safety area of community hall constructed for villagers in the area is eligible for deduction in the hands of the assessee as revenue in nature when the construction/maintenance of community hall is not related to the business of the assessee and therefore, not eligible for deduction?

(ii) Whether in the facts and in the circumstances of the case, the Tribunal was right in overlooking the fact that in any event the expenditure incurred on development of safety area amounted to addition of capital asset and therefore,the expenditure was not revenue in nature?

(iii) Whether in the facts and in the circumstances of the case, the Tribunal was right in holding that the expenditure incurred towards raw material storage yard is revenue expenditure when the said expenditure was incurred for total replacement of the existing storage yard and not for mere setting right defects of existing yard and therefore, ought to have been treated as capital expenditure resulting in an asset/benefit of enduring nature? "

4. The learned Senior Standing Counsel appearing 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 this case is less than the threshold limit.

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

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Rj

To

1. The Income Tax Appellate Tribunal,
   Chennai,"B" Bench

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

3. The Assistant Commissioner of Income Tax,
   Company Circle1(3), Chennai.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No.35743

T.C.A.Nos. 525 & 526 of 2016

PVS(CO)
HS(18/08/2021)