IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2021

CORAM

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

Tax Case Appeal No.552 of 2016

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

Vs.

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

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "D" Bench, dated 11.09.2015 passed in M.P.No.104/Mds/2015 in I.T.A.No.1743/Mds/2011 against the order passed by the Income Tax Appellate Tribunal 'D' Bench, Chennai dated 26.06.2015 made in I.T.A.No.1743/Mds/2011 for the Assessment year 2007-08. Against the Assessment Order by the Income Tax Department, The Assistant Commissioner of Income Tax, Company Circle V(3), Chennai - 34, Order dated 30.09.2011 made in PAN AABCR 0347 P for the Assessment year 2007-08. Against the proceedings before the Dispute Resolution Panel (DRP) Chennai, passed directions dated 08.09.2011 made in F.No.DRP/Chennai/Sectt/043/2011-12 for the Assessment year 2007-08, against the assessment order date 30.12.2010 passed by the Deputy Commissioner of Income Tax, Company Circle V(3), Chennai, made in PAN No.AABCR0347P for the Assessment year 2007-08.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.R.Venkat Narayanan
for M/s.Subbaraya Aiyar Padmanabhan

J U D G M E N T
(Delivered by M.DURAISWAMY, J.)

This appeal filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 11.09.2015 passed by the Income Tax Appellate Tribunal, Chennai "D" Bench, ('the Tribunal' for brevity) in M.P.No.104/Mds/2015 in I.T.A.No.1743/Mds/2011 for the assessment year 2007-08. The above appeal has been admitted on the following Substantial Questions of Law:

> "1.Whether on the facts and in the circumstances of the case, the Tribunal was right in allowing the claim of the assessee in relation to trade mark, license fee paid to its Associate Enterprise especially when the AE were not the registered owner of the trade mark?
>
> 2.Is not the finding of the Tribunal bad in allowing the claim relating to trade marks especially when assessee has been using the same from 1993 onwards while so the Associated Enterprise were formed only in the year 2005?
>
> 3.Whether the finding of the Tribunal is proper by deleting the additions made on account of corporate Bank guarantee given by the assessee to its AEs on the ground that it is not an international taxation?
>
> 4.Is not the finding of the Tribunal perverse by holding that it is not an international transaction when Section 92 B of the Income Tax Act which had been amended by Finance Act, 2012 with effect from 01.04.2012 included guarantee as an international taxation?
>
> 5.Whether the Tribunal was right in holding that the depreciation on temporary structure is to be allowed at 100% when the same issue for the earlier year was decided at 10% only in the assessee's own case for the assessment year 2006-07 which is against the rule of consistency?”

2. We have heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.R.Venkat Narayanan for

M/s.Subbaraya Aiyar Padmanabhan, learned counsel for the respondent/assessee.

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.Learned counsel for the respondent/assessee submitted that the assessee had availed the Vivad Se Vishwas Scheme and that the respondent/assessee had already been issued with Form-5 on 06.05.2021.

5.Since the respondent/assessee had been issued with Form-5, nothing survives for adjudication in the above appeal. Recording the submission made by the learned counsel for the respondent/assessee, the Tax Case Appeal stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-VII)

// True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,
Company Circle V(3)
Chennai.

3.The Ministry of Finance
Income Tax Department
Dispute Resolution Panel (DRP)
Chennai-34

4.The Deputy Commissioner of Income Tax
Company Circle V(3)
Chennai-34

+1cc to M/S. Subbaraya Aiyar, Advocate, S.R.No.35745
+1cc to M/S. T.Ravi Kumar, Advocate, S.R.No.35742

Tax Case Appeal No.552 of 2016

RLD(CO)
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