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.675 of 2016

M/s.Redington (India) Limited,
Redington House,
Centre Point Plot Nos.8 & 11 (SP),
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai - 600 032. ... Appellant/Respondent

Vs.

The Deputy Commissioner of Income Tax,
Company Range - V(4),
Fourth Floor, Main Building,
121, N.H.Road, Chennai - 34. ... Respondent/Appellant

Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, dated 17.07.2015 passed in I.T.A.No.2060/Mds/2013.

Appeal against the order of the I.T.A.No.731/13-14, order dated 19/08/2013, 28/12/2011, the Assistant Commissioner of Income Tax, Chennai, GIR.No/PAN No AABCRO347P, Assessment Year 2005-2006.

For Appellant : Mr.R.Venkatanarayanan

For Respondent : Mr.T.Ravi Kumar,
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 17.07.2015 passed by the Income Tax Appellate Tribunal, Madras "C" Bench, ('the Tribunal' for brevity) in I.T.A.No 2060/Mds/2013 for the assessment year 2005-06.

2.The above appeal was admitted on the following Substantial Questions of Law:

"1)Whether the Tribunal was right in law in holding that the payment to M/s.Microsoft Corporation Inc towards purchase of copyrighted software is royalty and hence tax has to be deducted at source without appreciating the Article 12 of Double Taxation Avoidance Agreement between India and USA?

2)Whether the Tribunal was right in law in holding that tax is deductible on the sale of copyrighted article (software) without appreciating that the sale consideration constitutes business profits of the Microsoft not taxable in India?

3)Whether the Tribunal was right in law in holding that tax is deductible on the gross payments made to Microsoft Corporation and not on the net amount payable after considering the sales return?

4)Whether tax is deductible in respect of price of software returned to Microsoft even before the due date for payment of the price in view of CBDT Circular No.790 dated 20.04.2000?"

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

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.We are informed by the learned counsel for the appellant/ assessee that the assessee had already been issued with Form - 3 on 05.03.2021 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

6.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. Income Tax Appellate Tribunal, Madras "C" Bench

2. The Deputy Commissioner of Income Tax,
   Company Range - V(4),
   Fourth Floor, Main Building,
   121, N.H.Road, Chennai - 34.

3. The Assistant Commissioner of Income Tax,
   Chennai.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No.19758

+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No.19746

Tax Case Appeal No.675 of 2016

PP(CO)
KM(19/04/2021)