IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2021

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Ms.Justice R.N.MANJULA

Tax Case Appeal No.697 of 2018

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

Vs

M/s.Renault India Private Ltd.,
No.37&38, ASV Ramana Towers,
4th Floor, Venkatanarayana Road,
T.Nagar, Chennai - 600 017.
PAN: AADCR2042M ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 30.01.2018 made in ITA.No.1078/Mds/2017 on the file of the Income Tax Appellate Tribunal, Madras 'D' Bench for the assessment year 2012-13 against the order passed by the Deputy Commissioner of Income Tax, corporate Circle 5(1) made in PANGI.No.AADCR2042M, dated 23.02.2017 and against the order passed by the Joint Commissioner of Income Tax Transfer Pricing Officer-2, Chennai made in No.R-210/TPO-2/2012-2013 dated 23.01.2017 and against the order passed by the Income Tax Department Ministry of Finance, Dispute Resolution Panel-2 bangalore, made in F.No.71/DRP-2/BLR/2016-2017 dated 29.12.2016, and against the Deputy Commissioner of Income Tax, Corporate Circle5(1) dated 20.03.2016 made in PAN/GI.No.AADCR2042M.

For Appellant: Mrs.Hemalatha
Senior Standing Counsel

For Respondent:Mr.N.V.Balaji

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J)

This appeal has been filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 30.01.2018 made in ITA.No.1078/Mds/2017 on the file of the Income Tax Appellate Tribunal, Madras 'D' Bench ('the Tribunal' for brevity) for the assessment year 2012-13.

2. The appeal was admitted on 19.11.2018 on the following substantial questions of law:

> "1. Whether the Tribunal was correct in holding that the purchase of cars by the Assessee from Nissan Automotive India Pvt Ltd would not come within the meaning of International Transaction and is not eligible to Arms length pricing analysis and adjustment thereof?
>
> 2. Whether the Tribunal was right in holding that the expenditure incurred on advertisement/market promotion activity will not amount to international transaction since the Assessee has incurred such expenditure to create market share for its cars and marginal benefit derived by its Principal Abroad as offshoot cannot be converted into an international transaction?"

3. We have heard Mrs.Hemalatha, learned Senior Standing Counsel appearing for the appellant/Revenue and Mr.N.V.Balaji, learned counsel appearing for the respondent.

4. The learned counsel appearing on behalf of the respondent/ assessee submits that the respondent/assessee has already filed the declaration/undertaking under the Vivad Se Vishwas Scheme and is awaiting orders to be passed in Form No.3.

5. In the light of the subsequent event, the Competent Authority shall process the application/declaration in accordance with the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) and pass appropriate orders as expeditiously as possible. The assessee is given liberty to restore this appeal in the event the ultimate decision to be taken on the declaration filed by the assessee under Section 4 of the said Act is not in favour of the assessee. If such a prayer is made, the Registry shall entertain the prayer without insisting upon any application to be filed for condonation of delay in restoration of the appeal and on such request made by the assessee by filing a miscellaneous petition for restoration, the Registry shall place such petition before the appropriate Division Bench for orders.

6. The tax case appeal stands disposed of with the aforementioned liberty and consequently, the substantial questions of law framed are left open. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/
Sub Asst. Registrar

hvk
To

1. The Income Tax Appellate Tribunal,
Chennai 'D' Bench.

2. The Commissioner of Income Tax,
Chennai.

3.The Deputy Commissioner of Income Tax,
Corporate Circle5(1)
Nungambakkam, Chennai-34

4.The Ministry of Finance
Income Tax Department,
Dispute Resolution Panel-2
bangalore

5.The Joint Commissioner of Income Tax,
Transfer Pricing Officer-2(I/c)
Chennai-6

+1 cc to Mr.T.Ravikumar Advocate sr426

TCA.No.697 of 2018

aa02/02/2021
aa09/02/2021