IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 25.06.2021

CORAM:

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

T.C.A.No.605 of 2014
and
M.P.No.1 of 2014

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

v.

M/s. Panasonic Home Appliances India
Company Limited,
No.5, Sholavaram Village,
Ponnery Taluk, Chennai - 600 067. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "C" Bench, dated 06.01.2012 in ITA.No.718/Mds/2010 for the Assessment Year 2005-2006. Against the order passed by the Commissioner of Income Tax (Appeals)-V, Chennai-34 dated 22.02.2010 made in ITA No.251/08-09 for the Assessment Year 2005-06 against the Assessment order passed by the Deputy Commissioner of Income Tax, Company Circle V (1), Chennai-34, dated 19.12.2008 made in PAN No.AAAC11304F for the Assessment Year 2005-06.

For Appellant : Mr.T. Ravikumar
Senior Standing Counsel

For Respondent : Mr.R.Venkatanarayanan

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

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

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 06.01.2012 made in ITA.No.718/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai, "C" Bench (for brevity, the Tribunal) for the Assessment Year 2005-2006.

3. The appeal was admitted on the following substantial questions of law :-

> “1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the royalty payment at fixed percentage of the net invoice value is to be treated as Revenue expenditure?
>
> 2. Is not the payment for royalty for use of Technical assistance which is intangible property acquired by the assessee under the head knowhow paid to the foreign collaborators is a capital expenditure and depreciation under Section 32(ii) allowable at 25%?
>
> 3. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the entire royalty payment in respect of electric rice cookers is allowable as revenue expenditure?”.

4. The learned Senior Standing Counsel appearing for the appellant submits that the above appeal is 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 Appeal is dismissed as withdrawn on account of the Low Tax Effect. The substantial question of law framed is left open. In the event the tax effect in this case is 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 appeal to be heard and decided on merits. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gv

To

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

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

3. The Deputy Commissioner of Income Tax,
   Company Circle V(1), Chennai-34

+1CC to Mr.T.Ravikumar, Advocate, Sr.No.29440

+1CC to M/s.Subbraya Aiyar, Advocate, Sr.No.29441

T.C.A.No.605 of 2014
and
M.P.No.1 of 2014

LN (CO)
K.RK. (22.07.2021)