IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Tax Case Appeal No.133 of 2015

Commissioner of Income Tax
Chennai. .. Appellant

Versus

M/s.IP Rings Ltd.,
Arjay Apex Centre
24, College Road,
Chennai- 600 006.
PAN:AAAC10908C .. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order dated 17.09.2013 passed by the Income Tax Appellate Tribunal, Madras "C" Bench, in I.T.A.No.690/Mds/2013.

For Appellant	:	Mr.S.Rajesh Junior standing Counsel for Mr.T.Ravikumar
For Respondent	:	Mr.R.Venkatanarayanan for M/s.Subharaya Iyer Padmanabhan

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JUDGMENT

S.VAIDYANATHAN, J
and
C.SARAVANAN, J

This tax case appeal has been filed by the Appellant / Revenue, calling in question the correctness of the order dated 17.09.2013 passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, in I.T.A.No.690/Mds/2013, relating to the assessment year 2002-03.

2.By order dated 24.03.2015, this court admitted the aforesaid tax case appeal on the following substantial question of law:

> *“1.Whether on the facts and circumstances of the case, the Tribunal was right in holding that 75% of the royalty payments are to be treated as revenue in nature?”*
>
> *2.Whether on the facts and circumstances of the case, the Tribunal is right in* not considering the fact that as per Explanation *3(b) to Section 32 (1) of the Income Tax Act, inserted w.e.f.01.04.1999, the technical know how acquired by the assessee was an intangible asset eligible for depreciation at 25% and therefore the royalty paid for such intangible asset was a capital expenditure?*
>
> *3. Whether in the facts and circumstances of the case, the Tribunal is right in ignoring the fact that the benefit acquired by the assessee under the Technical Assistance Agreement between the assessee and NPR was a benefit of enduring nature and therefore the expenses incurred towards the same was only a capital expenditure and not revenue expenditure?"*

3. When the matter was taken up for consideration, the learned counsel for the appellant / Revenue brought to the notice of this court the Circular No.17/2019 dated 08.08.2019 issued by the Central Board Direct Taxes, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore). It is also submitted that the tax effect in this appeal is less than the threshold limit.

3. In the light of the aforesaid submissions made by the learned counsel for the appellant / Revenue, the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial question of law for determination in an appropriate cases. No costs.

[S.V.N, J.]   [C.S.N, J.]
27.09.2022

Internet : Yes
Index   : Yes / No
arr

S. VAIDYANATHAN, J.
AND
C.SARAVANAN, J.

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To

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

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

TCA No. 133 of 2015

27.09.2022