IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal Nos.207 & 208 of 2024
and C.M.P.Nos.20744 and 20747 of 2024

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

Vs.

Indian Additives Limited
Express Highway, Manali
Chennai 600 068. .... Respondent

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras Chennai Bench, Chennai, dated 19.05.2023 made in I.T.A.Nos.1035 and 1036 of 2018.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel
For Respondent : Mr.G.Baskar

J U D G M E N T
(Delivered by R.SURESH KUMAR, J.)

These Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Chennai by raising the following substantial questions of law:

"(i) Whether on the facts and circumstances of the case, the Tribunal was justified in treating the Royalty payment made to M/s.Cheovrn Oronite Co, LLC, USA as Revenue expenditure especially when the assessee is enjoying an enduring benefit since the payments were made for infusion of New Technology which aided the assessee in its manufacturing activity?

(ii) Is not reasoning and finding of the Tribunal bad and perverse by holding that the Royalty payment made was Revenue expenditure especially when the assessee had obtained an exclusive right to manufacture and sell the products using the license technology which is a benefit of enduring nature?

(iii) Whether the Tribunal ought to have applied the decision of the Apex Court in the case of Southern Switchgear Ltd., reported in 232 ITR Page 259 (SC) wherein it was held that grant of technical aid fee for setting up of factory and right to sell the products as per collaboration agreement is to be treated as capital expenditure only and not allowable as Revenue expenditure and the ratio of the judgment is similar to the facts of the present case?"

2. It is brought to our notice by the learned Standing Counsel for the appellant Revenue that in the instant cases, the tax effect is said to be less than the monetary limit imposed and therefore, the appeals filed by the

Revenue can be disposed of, keeping the substantial questions of law raised in this appeals open for adjudication at a later point of time.

3. Recording the said submission, this Tax Case Appeals is dismissed for low tax effect, keeping open the substantial questions of law for adjudication at appropriate stage. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K.,J.) **(C.S.N.,J.)**
01.10.2024

NCS : Yes/No
Index : Yes/No
KST

To

The Income Tax Appellate Tribunal
Chennai.

R.SURESH KUMAR, J.

AND
C.SARAVANAN, J.

KST

T.C.A.Nos.207 & 208 of 2024

01.10.2024