IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2024

CORAM :
THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

T.C.A.No.22, 24 & 25 of 2021

The Pr. Commissioner of Income Tax No.63, Race Course Road, Coimbatore 641 018.	..	Appellant in T.C.A.No.22 of 2021
Commissioner of Income Tax Chennai.	..	Appellant in T.C.A.Nos.24 & 25 of 2021

Vs.

M/s.Salzer Electronics Ltd. No.1, Samichettipalayam Post Jothipuram via, Coimbatore 641 047 PAN: AAC CS 7106 G.	..	Respondent in T.C.A.No.22 of 2021
M/s. Sivananda Saraswathi Sevasharamam 20, Kambar Street, East Tambaram Chennai 600 059 PAN AATS 0160 K.	..	Respondent in T.C.A.Nos.24 & 25 of 2021

Prayer in T.C.A.No.22 of 2021: Appeal filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras "D" Bench, Chennai dated 26.02.2020 in I.T.A.No.1858/Chny/2019;

Prayer in T.C.A.No.24 of 2021: Appeal filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras "A" Bench, Chennai dated 06.02.2019 in I.T.A.No.1823/Chny/2018; and

Prayer in T.C.A.No.25 of 2021: Appeal filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras "A" Bench, Chennai dated 06.02.2019 in I.T.A.No.1824/Chny/2018.

For the Appellant in T.C.A.No.22 of 2021 : Mr.Karthik Ranganathan Senior Standing Counsel

For the Respondent in T.C.A.No.22 of 2021 : Mr.Niranjan Rajagopalan

For the Appellant in T.C.A.Nos.24 & 25 of 2021 : Ms.V.Pushpa Senior Standing Counsel

For the Respondents in T.C.A.Nos.24 & 25 of 2021 : Mr.R.Venkatanarayanan for Mr.Subbaraya Iyer Padmanabhan

COMMON JUDGMENT

(Order of the Court was made by R.SURESH KUMAR, J.)

T.C.A.No.22 of 2021 was admitted on 18.01.2021 on the following substantial questions of law:-

> 1. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was correct in setting aside the order of AO and CIT(A) and directing the AO to allow the deduction of ESOP expenditure, which was not debited in the Profit and Loss account?
>
> 2. Whether the Appellate Tribunal was correct in holding that absence and presence of entry in the books of account does not decide the allowability or otherwise of ESOP expenditure?
>
> 3. Whether the ITAT was correct in holding that SEBI had repealed the ESOP expenditure and once provision is repealed, it should be deemed that it was never part of guideline note?

2. T.C.A.Nos.24 and 25 of 2021 were admitted on 08.01.2021 on the following substantial questions of law:-

> 1. Whether on the facts and in the circumstances of the case, the Tribunal was right

in holding that the assessee is entitled for benefit under the provisions of Section 11 even though the assessee had not filed proper form 10 for accumulation of income and had not intended to purchase the lands during the financial year relating to the present assessment year 2011-12?

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee will be entitled for benefit under the provisions of Section 11 even though the assessee had accumulated the income in the year 2005-06 and 2006-07 and had not spent the said accumulated income within 5 years in contradiction to the specific provisions of Section 11(3) rw 11(2)(a) rw 2nd provisio to Section 11(2)?

3. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that for the purpose of the 2nd provisio to Section 11(2) the period of exclusion starts from the date of initiation of proceedings by the CMDA and not from the date of the stay order of this Court being 21.07.2015?

4. Whether on the facts and circumstances of the case, the Tribunal was right in not appreciating that the stay order of this Court was dated 21.07.2015 is much after the outer limit of five years period stipulated and therefore, the unspent accumulated income is to be assessed to tax as per the provisions of Section 11?

3. It is submitted by the respective learned Senior Standing Counsel appearing for the appellant Revenue that all these Tax Case Appeals are covered under the Low Tax Effect as per the recent Circular dated 17.09.2024, in Circular No.9/2024.

4. Recording the same, these appeals stand dismissed as Low Tax Effect. The questions of law raised in these appeals are kept open to be decided at the later point of time. There shall be no order as to costs. Consequently, C.M.P.No.278 of 2021 is closed.

(R.S.K., J.) (C.S.N, J)
24.10.2024

Neutral Citation:Yes/No

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R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.

(drm)

T.C.A.No.22, 24 & 25 of 2021

24.10.2024