IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2024

CORAM

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

Tax Case Appeal No.233 of 2024

Deputy Commissioner of Income Tax
Corporate Circle 5(1), Chennai 600034. .... Appellant

Vs.

M/s.Regen Powertech Pvt Ltd.,
Sivnanandam, No.1, Pulla Avenue
Shenoy Nagar, Chennai 600 030
PAN AADCR 5531 M .... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench Chennai, dated 07.12.2022 made in I.T.A.No.571/Chny/2021.

For Appellant : Mrs.V.Pushpa
Senior Standing Counsel

J U D G M E N T

(Delivered by R.SURESH KUMAR, J.)

This Tax Case Appeal has 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 in the circumstances of the case

the Tribunal was justified in holding that the license fee paid for non-transferable and exclusive license of know-how and sublicense the same to affiliates of the Assessee as revenue in nature and not a capital expenditure with enduring benefit?

(ii) Whether on the facts and in the circumstances of the case the Tribunal has fallen in error in ignoring the fact that the Assessee had paid the license fee in one lump sum and retained substantial rights which has an enduring benefit and therefore capital in nature?

2. It is brought to our notice by the learned Standing Counsel for the appellant Revenue that in the instant case, as per the CBDT's Circular No.9 of 2024 dated 17.09.2024 the tax effect is said to be less than the monetary limit imposed and therefore, the appeal can be disposed of, keeping the substantial questions of law raised in this appeal open for adjudication at a later point of time.

3. Recording the aforesaid submission made by the learned Standing Counsel for the appellant Revenue, this Tax Case Appeal is dismissed for low tax effect, keeping open the substantial questions of law for adjudication at appropriate stage. No costs.

(R.S.K.,J.) (C.S.N.,J.)
21.10.2024

NCS : Yes/No
KST

To

The Income Tax Appellate Tribunal
'B' Bench, Chennai.

R.SURESH KUMAR, J.

AND
C.SARAVANAN, J.

KST

T.C.A.No.233 of 2024

21.10.2024