IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2024

CORAM :

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

T.C.A.Nos.213 to 215 of 2024

The Pr. Commissioner of Income Tax – 1 Chennai.	..	Appellant in all TCAs

Vs.

M/s.Indian Additives Limited Express Highway, Manali Chennai – 600 068 PAN: AAACI-1445-G	..	Respondent in all TCAs

Prayer in T.C.A.No.213 of 2024: 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 19.05.2023 in I.T(TP).A.No.9/Chny/2018;

Prayer in T.C.A.No.214 of 2024: 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 19.05.2023 in I.T(TP).A.No.11/Chny/2018; and

Prayer in T.C.A.No.215 of 2024: 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 19.05.2023 in I.T(TP).A.No.10/Chny/2018.

For the Appellant in all T.C.As	:	Mr.T.Ravi Kumar Senior Standing Counsel
For the Respondent in all T.C.As	:	Mr.I.Dinesh for Mr.G.Baskar

COMMON JUDGMENT

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

The substantial questions of law raised in T.C.A.Nos.213 and 214 of 2024 are:-

(i) Whether on the facts and circumstances of the case the Tribunal was justified in holding that the TDS and R&D Cess Payment made on Royalty by the Assessee to its Associate Enterprise is neither a tax nor a duty levied on the profits of the Assessee, but was an expenditure incurred by the Assessee for payment of a royalty which was revenue in nature even though the same was capital as per explanation (4) to Section 32(1) as it falls under the category of intangible assets?

(ii) Whether on the facts and circumstances of the case the Tribunal was right in holding that R&D Cess payment made on royalty by the Assessee to its Associate enterprise is an allowable expenditure ignoring the statutory provisions contained in Section 40(a)(ii) of the IT Act, 1962?

2. The substantial questions of law raised in T.C.A.No.215 of 2024 are:-

(i) Whether on the facts and circumstances of the case the Tribunal was justified in treating the royalty payment made to M/s Chevorn 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 Royalty payment made was Revenue expenditure especially when the Assessee got exclusive right to manufacture and sell the products using the license technology which gives a benefit of enduring nature and therefore Capital in nature?

(iii) Whether on the facts and circumstances of the case the Tribunal was justified in holding that the TDS and R&D Cess Payment made on Royalty by the Assessee to its Associate Enterprise is neither a tax nor a duty levied on the profits of the Assessee, but was an expenditure incurred by the Assessee for payment of a royalty which was revenue in nature even though the same was capital as per explanation (4) to Section 32(1) as it falls under the category of intangible assets?

(iv) Whether on the facts and circumstances of the case the Tribunal was right in holding that R&D Cess payment made on royalty by the Assessee to its Associate enterprise is an allowable expenditure ignoring the statutory provisions contained in Section 40(a)(ii) of the IT Act, 1962?

3. It is submitted by *Mr.T.Ravi Kumar*, 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.Nos.21266 and 21269 of 2024 are closed.

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

03.10.2024

Neutral Citation:Yes/No

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

(drm)

T.C.A.Nos.213 to 215 of 2024

03.10.2024