IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM

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

T.C.A.No.695 of 2019

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

-Vs-

M/s.Regen Powertech (P) Ltd.,
Samson Towers,
3rd, 4th and 5th Floors,
403, Pantheon Road,
Egmore, Chennai - 600 008.
PAN: AADCR5531M ... Respondent

PRAYER : Tax Case Appeal filed under Section 260 A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal 'D' Bench, Chennai dated 17.08.2016 in I.T.A.No.786/Mds/2016 for the assessment year 2011-12.

For Appellant : Mrs.V.Puspha
Senior Standing Counsel

For Respondent : Mr.R.Sivaraman

J U D G M E N T

(Judgment of the Court was 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:

1. *Whether the Tribunal was correct in deleting the additions made on account of Corporate Social Responsibility expenses even though the same is not pertaining to the Assessee's business?*
2. *Whether the expenditure incurred on Corporate Social Responsibility which are not mandatory and was introduced only with by Finance Act, 2014 by way of Explanation to Section 37 is applicable only in the subsequent year and not for the present assessment year and therefore not allowable?*
3. *Whether the VAT subsidy received from the Andhra Pradesh Government is to be treated as a capital subsidy or revenue subsidy as they are in the nature of supplementary trading receipt received year after year?*
4. *Whether the Tribunal ought to have applied the decision of the Apex Court in the case of Sahani Steels and Press Works Limited reported in 228 ITR*

253 wherein it had been held subsidy which are granted year after year after setting up of a new industries that too after commencement of production and therefore is to be treated as assistance given for the purpose of carrying on the business?

5. *Whether the claim for provision for warranty amounting to Rs.29,68,000/- which is not based on any scientific basis is to be allowed as it is contrary to the decision of the Madras High Court in the case of Renowned Auto Products Mfrs.Ltd reported in 354 ITR page 127 Mds and that of Forbes Campbell Finance Ltd reported in 352 ITR page 602 Mds?*
6. *Whether the excess royalty payment is to be allowed on bought out components which are not manufacture by the Assessee but are procured from 3rd parties?*
7. *Whether the downward adjustment made by the TPO on bought out components based on technical specification which are in violation of the RBI guidelines are to be allowed?*

2. It is brought to our notice by the learned Senior 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 Senior 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. However, there shall be no order as to costs.

(R.S.K., J.) **(C.S.N., J.)**
22.10.2024
(1/3)

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
vji

To

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

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

vji

T.C.A.No.695 of 2019

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(1/3)