

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri Duvvuru RL Reddy, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 1136/Chny/2019  
निर्धारण वर्ष/Assessment Year: 2014-15

M/s. Fenner Conveyor Belting P. Ltd.,  
Madurai-Dindigul Road, Nagari,  
Vadipatti Taluk, Madurai 625 221.  
**[PAN:AABCJ3010D]**

The Assistant Commissioner of  
Income Tax, Corporate Circle 1,  
Madurai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri G. Chandrababu, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 18.01.2021  
घोषणा की तारीख /Date of Pronouncement : 18.02.2021

**आदेश / O R D E R**

**PER DUVVURU RL REDDY, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 1, Madurai, dated 25.02.2019 relevant to the assessment year 2014-15. The only effective ground raised in the appeal of the assessee is that the Id. CIT(A) has partly confirmed the disallowance of royalty paid to M/s. JH Fenner Company Ltd., UK, which was claimed as revenue expenditure.

2. The assessee is engaged in the business of manufacture and sale of PVC conveyor belts used in automobile industries. While concluding the assessment for the assessment year 2014-15, the Assessing Officer

observed that in the profit and loss account, the assessee has debited the royalty payment of ₹.2,15,26,431/- and claimed it as revenue expenditure. By following assessee's own case for the assessment years 2010-11 & 2011-12, the Assessing Officer disallowed the above claim of the assessee and brought to tax. On appeal, after considering the submissions of the assessee, the Id. CIT(A) allowed 50% of the total claim as revenue in nature and the balance 50% of the claim was relatable to capital field.

3. On being aggrieved, the assessee is in appeal before the Tribunal. At the outset, the Id. Counsel for the assessee has submitted that the issue involved in this appeal is squarely covered in favour of the assessee by the decision of the Tribunal in assessee's own case for the assessment years 2010-11 & 2011-12 in I.T.A. Nos. 642 & 643/Chny/2015 dated 31.12.2018. On the other hand, the Id. DR dutifully supported the appellate order.

4. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, the assessee has claimed the payment of royalty as revenue expenditure, whereas, by following the assessee's own case for the assessment years 2010-11 & 2011-12, the Assessing Officer disallowed the above claim of the assessee. However, on appeal, the Id. CIT(A) has treated 50% of the royalty payment as revenue expenditure and held that 50% of the total claim was

relatable to capital field. On an identical facts and circumstance, similar issue was subject matter in appeal before the Tribunal in assessee's own case for the assessment years 2010-11 & 2011-12, wherein the Coordinate Benches of the Tribunal have observed and held as under:

4. *Ground No.2(i) : Disallowance of royalty paid to M/s. J.H. Fenner & Co. Ltd., UK:-*

*During the course of assessment proceedings, it was observed by the Ld.AO that the assessee had paid royalty amounting to Rs.1,35,85,308/- & 1,52,62,889/- for the assessment years 2010-11 & 2011-12 respectively to M/s. J.H. Fenner & Co. Ltd., UK. The Ld.AO was of the view that it relates to payment towards acquiring patent rights of enduring nature falling under 'capital field' and therefore cannot be treated as revenue expenditure. Accordingly the Ld.AO added the same to the income of the assessee for both the assessment years. However the Ld.AO allowed the benefit of depreciation @ 25% as per the rate prescribed under the Rules for technical know-how / patents / license / copy rights/ franchise. On appeal the Ld.CIT(A) also confirmed the order of the Ld.AO by agreeing with his view.*

*4.1 At the outset we find that the royalty payment is directly linked to the turnover on certain percentage basis. The relevant portion of the royalty agreement is extracted by the Ld. CIT(A) in his order in Para 5. Therefore it is apparent that the expenditure incurred towards royalty is revenue in nature and cannot be treated as capital expenditure of enduring benefit. Moreover the Ld. Revenue Authorities have also not brought out as to how the royalty payments made during the relevant assessment years brings benefit to the assessee year after year. For the above stated reasons, we hereby direct the Ld.AO to delete the addition made towards royalty in the case of the assessee for both the assessment years.*

4.1 The Id. DR could not controvert the above decision of the Tribunal by filing any higher court's decision having modified or reversed the order of the Tribunal. Respectfully following the above decision of the Coordinate Bench

in assessee's own case for the assessment years 2010-11 & 2011-12, we direct the Assessing Officer to delete the addition made towards payment of royalty. Thus, the ground raised by the assessee stands allowed.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced on the 18<sup>th</sup> February, 2021 in Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, 18.02.2021

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.