IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Tax Case (Appeal) No.1122 of 2007

Commissioner of Income Tax, Chenai.
.. Appellant/Appellant

Vs.

Tube Investments of India Ltd.,
'Tiam House', 28, Rajaji Salai,
Chennai-600 001.
.. Respondent/Respondent

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act against the order dated 21.07.2006 made in I.T.A.No.1159/Mds/99 on the file of the Income Tax Appellate Tribunal, 'B' Bench, Chennai`against the Order passed by the Commissioner of Income Tax (Appeals-V) Chennai-34 dated 20.5.1999 made in ITA No.33/98-99 which was preferred against the order passed by the Deputy Commissioner of Income Tax Special Range I, Chennai dated 9.3.98 and made in GIR No.47-066. CY-3348.

For appellant : Mrs.Hema Muralikrishnan, Standing Counsel for Income Tax

For respondent : Mr.M.P.Senthilkumar

JUDGMENT

(The Judgment of the Court was delivered by Nooty.Ramamohana Rao,J)

This Tax Case Appeal being the old matter, has been taken up for final disposal by us today. This appeal is preferred by the Commissioner of Income Tax, Chennai, aggrieved by the order, dated 21.07.2006 passed by the Income Tax Appellate Tribunal, 'B' Bench, Chenai in I.T.A.No.1159/Mds/1999.

2. Learned counsel for the respondent-assessee, in the form of a memorandum, has raised a preliminary objection with regard

to the sustainability of the Department's Tax Case Appeal, based upon the instructions contained in Circular No.21 of 2015, dated 10.12.2015 issued by the Central Board of Direct Taxes, New Delhi.

3. The said Circular No.21 of 2015 deals with the subject matter of revision of mandatory limits for filing of the appeals by the Department before the Income Tax Appellate Tribunal, High Courts and Special Leave Petitions before the Supreme Court. Various measures are devised from time to time for reducing the unproductive litigations. In paragraphs 3 and 10 of the said Circular, the following instructions have been issued:

> "3. Henceforth, appeals/SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:-
>
> | Sl. No. | Appeals in Income-tax matters | Monetary Limit (in Rs.) |
> |---|---|---|
> | 1 | Before Appellate Tribunal | 10,00,000/- |
> | 2 | Before High Court | 20,00,000/- |
> | 3 | Before Supreme Court | 25,00,000/- |
>
> It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case."
>
> "10. The instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed."

4. From the above instructions contained in the Circular, learned counsel for the respondent/assessee submitted that pending appeals before the High Court, below the specified tax limits as stated in paragraph 3 of the Circular, are liable to be withdrawn/not pressed. The limits prescribed in paragraph 3 insofar as the appeals before the High Court are concerned, they are set out for Rs.20 lakhs. According to the learned counsel for the respondent/assessee, the total tax effect in the instant case is to the value of Rs.16.40 lakhs (approximately) and hence, it being less than the limit of tax effect specified in

paragraph 3 of the said Circular at Rs.20 lakhs, this appeal deserves to be dismissed either as withdrawn or not pressed.

5. At this stage, learned Standing Counsel appearing for the appellant/Revenue (Department) urged that having noticed the instructions contained in the said Circular, she has already taken up the matter with the Department, but however, she has not received any instructions in writing from the Department and hence, she cannot withdraw this appeal.

6. It is appropriate to notice that the Central Board of Direct Taxes has issued the instructions contained in the said Circular in exercise of its power available to it under Section 268-A(i) of the Income Tax Act,1961 and hence, the Circular has statutorily enforceable character. In that view of the matter, we treat this appeal as not pressed and dismiss it as such. However, it goes without saying that the questions of law raised in this appeal for consideration of this Court in this appeal, are kept open to be decided on merits in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Copy to

To

1. The Assistant Registrar,
Income Tax Appellate Tribunal,
Rajaji Bhavan,
III Floor, Besant Nagar,
Chennai-600 090. (with records) (5 copies)

2. The Secretary,
Central Board of Revenue,
New Delhi. (3 copies)

3. The Secretary,
Central Board of Direct Taxes,
New Delhi. (3 copies)

4. The Commissioner of Income Tax,
Tamil Nadu Circle, Chennai-600 034.

5. The Commissioner of Income Tax (Appeals)-V,
   Tamil Nadu Circle, Chennai-600 034.

6. The Deputy Commissioner of Income Tax (Spl- Raange-I),
   Chennai.

+1cc to Mr.T.Ravikumar, Advocate sr.26229
+1cc to Mr.Philip George, Advocate sR.26926

T.C.(A).No.1122 of 2007

ctk(CO)
srg(12/05/2016)