IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.40 of 2016

Commissioner of Income-tax,
Corporate Circle 3(2),
Chennai. .... Appellant

-vs-

M/s.Victor Shipping Agencies Private Limited,
27/A, Mooker Nallamuthu Street,
Chennai-600 001.
PAN: AAACV 3703G. ...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai "B" Bench, dated 26.06.2015 in I.T.A.No.497/Mds/2014, for the assessment year 2003-04.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel
and Ms.V.Pushpa,
Junior Standing Counsel

For Respondent : No Appearance

*****

JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

This appeal, by the appellant/Revenue, is directed against the order of the Income Tax Appellate Tribunal Chennai "B" Bench, dated 26.06.2015 in I.T.A.No.497/Mds/2014, for the assessment year 2003-04.

2.Heard Mr.M.Swaminathan, learned Senior Standing Counsel and Ms.V.Pushpa, learned Junior Standing Counsel for the Revenue.

3.The above appeal has been admitted on 01.02.2016, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in quashing the reopening assessment without considering that the assessee company has claimed expenses on 'repair and maintenance of containers' without noting that the assessee company does not own any containers?
>
> (ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in quashing the reopening assessment without considering the case on merits?"

4.We have perused the order of assessment as well as the order passed by the Commissioner of Income Tax and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue this appeal in view of the low tax effect. Hence, this appeal is dismissed and the substantial questions of law, framed for consideration, are left open. The Revenue is at liberty to seek for restoration of appeal if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular. No costs.

(T.S.S., J.) (V.B.S., J.)

02.11.2018

abr

To

The Income Tax Appellate Tribunal Chennai "B" Bench.

T.S.Sivagnanam, J.
and
V.Bhavani Subbaroyan, J.

(abr)

T.C.A.No.40 of 2016

02.11.2018