IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM:

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

Tax Case (Appeal) No.1036 of 2010

Commissioner of Income Tax -I,
Chennai. .. Appellant/Appellant

Vs.

M/s.Effa Healthy Life Pvt.Ltd.,
No.Q-67, 16th Street, Anna Nagar,
Chennai-600 040. .. Respondent/Respondent

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act against the order dated 07.05.2010 made in I.T.A.No.1004/Mds/2009 Assessment year 2005-2006 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench against the order of the Commissioner of Income tax (Appeals) III, Chennai - 600 034, dated 31.03.2009, made in ITA No. 406/07-08/A.VII against the order of The Income Tax Officer, Company Ward III (1), Chennai 34, dated 24.12.2007 made in GIR No./PAN AAACE7900Q for the Assessment year 2005-06.

For appellant : Mr.T.R.Senthilkumar,
Standing Counsel for Income Tax Department.

For respondent : Mr.S.Sridhar

JUDGMENT

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

This Tax Case Appeal being an 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 07.05.2010, passed by the Income Tax Appellate Tribunal, Chennai 'B' Bench, in I.T.A.No.1004/Mds/2009.

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.18,76,810/- 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, he has already taken up the matter with the Department, but however, he has not received any instructions in writing from the Department and hence, he 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 dismissed as withdrawn, in view of the instructions received by the learned Standing Counsel to that effect, and dismiss it as such. However, it goes without saying that the questions of law raised in this appeal for consideration of this Court are kept open to be decided on merits in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

dixit
To
1. The Commissioner of Income Tax I,
Appellate Tribunal, B Bench,
Chennai.

2. The Commisioner of Income Tax,
(Appellate III), 121, Mahatma Gandhi Road,
Chennai 34.

3. The Income Tax Officer
Company Ward III(1)
Room No.415, New Block 121,
MG Road, Chennai 34.

1 cc to Mr.T.R.Senthilkumar, Advocate, sr.27736
1 cc to Mr.S.Sridhar, Advocate, sr.27571

T.C.A.No.1036 OF 2010

nm co
kra 06.06.2016