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) Nos.1361,1362,1363 & 1364 of 2010

Commissioner of Income-Tax-I,
Chennai. .. Appellant in all appeals/ Respondent

Vs.

M/s.Five Star Business Credits Ltd.,
Chennai. .. Respondent in all appeals/ Appellant

T.C.A.No.1361 of 2010 is filed under Section 260-A of the Income Tax Act against the order dated 23.05.2003 made in I.T.A.No.33/Mds/2003 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, against the order of the Commissioner of Income Tax (Appeals) III, Chennai 34, dated 01.10.2002 made in Int.TA No.24/2002-03/A111 and against the order of the Deputy Commissioner of Income Tax, Company Circle II(4), Chennai, made in PAN/GIR Fx1-010 for the Assessment Year 2000-2007 dated 18.03.2002.

T.C.A.No.1362 of 2010 is filed under Section 260-A of the Income Tax Act against the order dated 23.05.2003 made in I.T.A.No.82/Mds/1999 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai and preferred against the order of the Commissioner of Income tax (Appeals) X, Chennai 34, dated 24.05.2000, made in 17/WT/GT Appeal No.INT.A.298/99-2000 and against the order by the Deputy Commissioner of Income Tax, Special Range IV made in PAN/GIR No.47 066 CV 3053 for the Assessment Year 1995-1996, dated 24.03.1998

T.C.A.No.1363 of 2010 is filed under Section 260-A of the Income Tax Act against the order dated 23.05.2003 made in I.T.A.No.10/Mds/2001 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai and against the order by the Commissioner of Income Tax (Appeals), Chennai 34, dated 04.10.2000 made in IT/WT/G7/Appeal No.INTA 5/2000-2001 and against the order made in PAN/GIR 25FAAACF0419M by the Joint

Commissioner of Income Tax Special Range IV, Chennai for the Assessment Year 1997-98, dated 24.02.2000.

T.C.A.No.1364 of 2010 is filed under Section 260-A of the Income Tax Act against the order dated 23.05.2003 made in I.T.A.No.36/Mds/2002 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai and preferred against the order by the Commissioner of Income Tax (Appeals) IX, Chennai 34, dated 18.03.2002, made in ITA 84/2001-02 and against the order of the Joint Commissioner of Income Tax, Special Range IV, Chennai 34, made in PAN/GIR No.AAA CF 04194 for the Assessment year 1996-97, dated 26.02.1999.

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

For respondent : Mr.V.S.Jayakannar for Mr.V.D.Gopal.

JUDGMENT

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

These Tax Case Appeals, being old matters, have been taken up for final disposal by us today. These appeals are preferred by the Commissioner of Income Tax-I, Chennai, aggrieved by the order, dated 23.05.2003, passed by the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, in I.T.A.No.33/Mds/2003, I.T.A.No.82/Mds/1999, I.T.A.No.10/Mds/2001 and I.T.A.No.36/Mds/2002 respectively.

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.3,33,820/-, 5,37,428/-, 7,46,183/-, 99,977/- respectively, and hence, it being less than the limit of tax effect specified in paragraph 3 of the said Circular at Rs.20 lakhs, these appeals deserve 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 these appeals.

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 these appeals as dismissed as withdrawn, in view of the instructions received by the learned Standing Counsel to that effect, and dismiss them as such. However, it goes without saying that the questions of law raised in these appeals for consideration of this Court are kept open to be decided on merits in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

dixit

1. The Income Tax Tribunal,
Madras B Bench, Chennai.

2. The Commissioner of Income Tax,
(Appeals) III, Chennai 34.

3. The Commissioner of Income Tax (Appeals) X
Chennai 34.

4. The Commissioner of Income Tax Appeals,
Chennai 34.

5.The Commissioner of Income Tax (Appeals) XI,
Chennai 34.

6.The Deputy Commissioner of Income Tax,
Company Circle II(4), Chennai 34.

7.The Deputy Commissioner of Income Tax,
Special Range IV, Madras 34.

8.The Joint Commissioner of Income Tax,
Special Range IV, Chennai 34.

1 cc to Mr.V.S.Jayakumar, Advocate, sr.27533
1 cc to Mr.T.R.Senthilkumar, Advocate, sr.27729

T.C.A.No.1361 TO 1364 OF 2010

scd co
kra 29.06.2016