IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.12.2018

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case No.405 of 2008

Commissioner of Income Tax
Chennai Appellant

Vs.

M/s.S&S Power Finvest Limited,
168 Mount Poonamallee Road,
Porur, Chennai 600 116. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 23.2.2007 made in ITA No.1528/Mds/2003 preferred against the order of the Commissioner of Income Tax (Appeals)VI in I.T.A. No. 554/01-02 dated 25.03.2003 filed against the Assessment order dated 28.03.2001 on the file of the Deputy Commissioner of Income Tax Company Circle IV(6) Chennai 6 for the Assessment year 1998-1999.

For Appellant : Ms.K.G.Usharani for Mr.T.R.Senthilkumar Senior Standing Counsel

For respondent : Mr.Vikram Vijayaraghavan for M/s.Subbaraya Aiyar Padmanabhan

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 23.2.2007 made in ITA No.1528/Mds/2003, by raising the following substantial questions of law:

"(i) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the interest income from UK Company should only be taxed on receipt basis, when the assessee was following a mercantile system of accounting?

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ii) Whether in the facts and circumstances of the case, the Tribunal was right in holding that expenditure on market research, due diligence report, etc., incurred even prior to the investment in shares of the foreign company should be treated as a business expenditure?"

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssk.

To

1. The Registrar
   Income Tax Appellate Tribunal
   Madras 'C' Bench
   Chennai.

2. The Commissioner of Income Tax (Appeals) VI
   121, Mahatma Gandhi Road
   Chennai 34

3. The Deputy Commissioner of Income Tax
   Company Circle IV(6) Chennai 6

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