IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2018

CORAM

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

Tax Case Appeal No.305 of 2009

Commissioner of Income Tax
Chennai-III. Appellant

Vs.

M/s.Macmillian India Ltd.,
No.21, Paullos Road, Chennai-2. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 5.9.2008 made in ITA No.1961/Mds/2003, against the Order of the Commissioner of Income Tax (Appeals) in ITA.No. 68/2003 to 2004) dated 25.07.2003 against the Assessment Order for the Assessment Year 2000-2001 dated 25.03.2003 on the file of the Assistant Commisssioner of Income Tax Company Circle IV (1), Chennai-34.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For respondent : Mr.Venkataraman for
M/s.Subbaraya Iyer

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 'B' Bench, Chennai, dated 5.9.2008 made in ITA No.1961/Mds/2003, by raising the following substantial question of law:

"Whether, on the facts and circumstances of the case, the Appellate Tribunal was right in holding that the income of the assessee by way of subsidy towards printing cost, copyright fees and amount written back of excess provision of commission payable to executive directors made in the preceding assessment year, constituted profits and export business and were eligible for deduction under section 80HHC and Explanation (baa) to section 80HHC of the Act would not be applicable to such receipts?"

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 less than the monetary limit imposed and therefore, the appeal is dismissed as not pressed, preserving the substantial question of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

TO
1.The Registrar, Income Tax Appellate Tribunal,
Chennai Bench, 'B'Chennai.

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

3.The Assistant commissioner of Income Tax,
Company Circle IV(1), Chennai-34.

+1cc to Mr.Karthik Ranganathan, Advocate, S.R.No.81866
+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No.81303

TCA No.305 of 2009

PPA(CO)
GN(09/01/2019)