IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM

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

Tax Case Appeal No.922 of 2009

Commissioner of Income Tax
Chennai - III. .... Appellant/Appellant

Vs.

M/s.Sivagami Holdings Pvt. Ltd.,
202, Anna Salai,
Chennai - 600 002. .... Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 09.02.2009 made in ITA No.834/Mds/2008 for the assessment year 2003-04, and this Appeal preferred against the order dated 26.11.2007 made in ITA No.166/06-07 on the file of the Commissioner of Income Tax (Appeals) V 121, Mahatma Gandhi Road, Chennai 600 034 for the Assessment year 2003 to 2004 and this appeal preferred against the order dated 27.03.2006 made in PAN No.SI-87/AAECS3279A on the file of the Income Tax Officer (CSD) Company Circle VI(3) Chennai for the Assessment year 2003-2004.

For Appellant : Mr.T.R.Senthil Kumar
Sr.Standing Counsel

For Respondent : Mr.Sivaraman

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 'D' Bench, Chennai, dated 09.02.2009 made in ITA No.834/Mds/2008 for the assessment year 2003-04 by raising the following substantial question of law:

"Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that no tax is chargeable in India under the

Income Tax Act on the rental and interest receipts of the Malaysian Branch of the assessee company in view of the Double Taxation Avoidance Agreement even though such receipts have not been subjected to tax in Malaysia since they arose outside Malaysia?"

2. When the matter is taken up for admission, the learned Senior 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(CCC)

//True copy//

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai.

2.The Commissioner of Income Tax (Appeals) V,
121, Mahatma Gandhi Road, Chennai 600 034

3. The Income Tax Officer (CSD)
Company Circle VI(3), Chennai.

4. The Assistant Commissioner of Income Tax,
Company Circle VI (3), Chennai-34

+1cc to M/s.T.R.Senthilkumar, Advocate SR.No.81237

+1cc to Mr.S.Sridhar, Advocate SR.No.81231

TCA No.922 of 2009

KJ(CO)
GMY(04/01/2019)