IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Tax Case Appeal No.151 of 2011

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

-vs-

M/s.Tamil Nadu Medical Services
Corporation Ltd.,
417,Pantheon Road, Egmore,
Chennai - 600 008. ...Respondent/Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 (for brevity 'the Act') against the order of the Income Tax Appellate Tribunal Chennai 'D' Bench, dated 29.10.2010 in ITA No.1716/Mds/2008, for the Assessment year 1999-2000 and this Appeal preferred against the order dated 25.01.2008 made in I.T.A. No.628/06-07/A-III on the file of the Commissioner of Income Tax (Appeals)-III, No.121, Mahatma Gandhi Road, Chennai 600 034 for the Assessment Year 1999-2000 and this appeal preferred against the order dated 29.11.2006 made in 31131-T/AAACT3400E on the file of the Income Tax Officer(OSD) Company Circle-III (1) Chennai 600 034 for the Assessment Year 1999-2000.

For Appellant : Mrs.V.Pushpa

For Respondent : Mr.M.P.Senthil Kumar

JUDGMENT

[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

This Tax Case Appeal by the Revenue is filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'D' Bench, dated

29.10.2010 in ITA No.1716/Mds/2008, for the Assessment year 1999-2000.

2.Heard Mrs.V.Pushpa, learned Counsel for the appellant and Mr.M.P.Senthil Kumar, learned Counsel for the Respondent.

3.This Appeal has been admitted on 25.04.2011, on the following Substantial Question of Law:

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the addition of Rs.29,54,145/- sustained by the Commissioner of Income Tax (Appeals) towards the expenditure on provision of certain capital assets to Government Hospitals, which could not be allowed as revenue expenditure under Section 37?"

4.We have perused the order of Assessment as well as the Order passed by the Commissioner of Income Tax and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue this Appeal in view of the low tax effect. Hence, the Appeal is dismissed and the Substantial Questions of Law, framed for consideration, are left open. No costs. The Revenue is at liberty to seek for restoration of appeal, if at a later point of time, it is found that the tax effect is above the threshold limit.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax (Appeals)-III,
   No.121, Mahatma Gandhi Road, Chennai 600 034.

3. The Income Tax Officer(OSD), Company CircleIII(1)
   Chennai 600 034.

+1 cc to Mr.M.Swaminathan, Advocate Sr.No.81320
+1 cc to Mr.N.Muthukumar, Advocate Sr.No.81597

T.C.A.No.151 of 2011

KJ(CO)
CSL/06.02.2019