IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2018

CORAM :

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

Tax Case (Appeal) No.266 of 2011

Commissioner of Income Tax-LTU,
Chennai. ...Appellant/Appellant

-vs-

M/s.Wheels India Ltd.,
Padi, Chennai - 600 050. ...Respondent/Appellant

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income-tax Appellate Tribunal, "A" Bench, Chennai, dated 16.12.2010, passed in I.T.A.No.250/Mds/2010 for the assessment year 2005-06 against the order of The Commissioner of Tax (Appeals) LTU, Chennai, dated 30.11.2009 passed in ITA No.478/07-08/LTU(A) for the Assessment Year 2005-2006 against the order of the Additional Commissioner of Income Tax Company Range III, Chennai - 34, dated 14.12.2007 in GIR No/PAN:AAACNO315K(33001-W) for the assessment year 2005-06.

For Appellant : M/s.R.Hemalatha

For Respondent: Mr.R.Venkatanarayanan
for M/s.Subaraya Aiyar
Padmanabhan

JUDGMENT

(Judgment was delivered by T.S.Sivagnanam, J.)

This appeal by the appellant/Revenue is directed against the order of the Income-tax Appellate Tribunal, "A" Bench, Chennai, dated 16.12.2010, passed in I.T.A.No.250/Mds/2010 for the assessment year 2005-06.

2.Heard M/s.R.Hemalatha, learned counsel for the appellant/Revenue and Mr.R.Venkatanarayanan, learned counsel for the respondent/assessee.

3.This Appeal has been admitted on 19.07.2011, on the following substantial question of law:-

"Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the Assessing Officer was not jusitifed in disallowing the commission of Rs.1,05,23,000/- to foreign agents for procuring export orders and rendering managerial services under Section 40(a)(i) of the Income Tax Act, 1961 even though no tax was deducted at source?"

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 Question of Law, framed for consideration, is 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 or to fall under the exceptional clauses mentioned in the Circular.

cse

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To
1. The Income-tax Appellate Tribunal,
"A" Bench, Chennai.
2. The Commissioner of Income Tax - LTU,
Chennai.
3. The Additional Commissioner of Income Tax
Company Range-III, Chennai - 34.

+1cc to Mr.Subbaraya Aiyar Padamanaban, Advocate, S.R.No.83873
+1cc to Mr.T.Ravikumar, Advocate, S.R.No.83291

Tax Case (Appeal) No.266 of 2011

VBA(CO)
KAK(03/01/2019)