IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2018

CORAM

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

Tax Case (Appeal) No.68 of 2011

The Commissioner of Income-tax-VIII,
Chennai. ... Appellant/Appellant

-vs-

M/s. Prime International presently Known as
Prime International India Pvt. Ltd, No.723/2,
M.B.T.Road, Cross Ranipet-623 503.
(PAN :AADCP3461E) ... Respondent/Respondent

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 07.05.2010, passed in M.P.No.49/Mds/2010 in I.T.A.No.785/Mds/2008 for the assessment year 2001-02 as agaist the order of the Commissioner of Income Tax(Appeals)-IV, Chennai-34 Appeal No.CIT(A)-IV/CHE/238/06-07, dated 31.03.2009 as against the order of the Assistant Commissioner of Income Tax, Vellore made in GIR.No.11318-P/2001-02, dated 16.06.2005.

For Appellant : M/s.V.Pushpa
Standing Counsel

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 07.05.2010, passed in M.P.No.49/Mds/2010 in I.T.A.No.785/Mds/2008 for the assessment year 2001-02.

2.Heard M/s.V.Pushpa, learned Standing Counsel for the appellant/Revenue.

3.This Appeal has been admitted on 22.02.2011, on the following substantial questions of law:-

"1.Whether on the facts and in the circumstances of the case, the Income-Tax Appellate Tribunal was right in law in dismissing the Miscellaneous Petition filed by the revenue on the ground that there is no prima facie mistake apparent from order even though the issue is covered by the decision of the Hon'ble Supreme Court in IPCA Laboratory Ltd. v. Deputy Commissioner of Income-tax [(2004) 266 ITR 521]?

2.Whether on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal was right in dismissing the Miscellaneous Petition filed against the order of the Income-tax Appellate Tribunal in ITA No.785/Mds/2009 even though the Act is not valid and deleted the addition made by the assessing officer?"

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 or to fall under the exceptional clauses mentioned in the Circular.



Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Income-tax Appellate Tribunal, “A” Bench, Chennai.

2. The Commissioner of Income Tax(Appeals)IV, Chennai-34

3. The Assistant Commissioner of Income Tax,
   Vellore.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.80340

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CNR(CO)
CS/09/01/2019