IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Tax Case Appeal No.496 of 2018

The Commissioner of Income tax,
Chennai. ... Appellant

-vs-

M/s.Oracle Trading Company Pvt.Ltd.,
No.50, Thiruporur Road,
Kayarambedu Village,
Guduvancherry,
Kancheepuram District-603 202. ... Respondent

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 10.11.2016 made in ITA No.2274/Mds/2016, against the order of Commissioner of Income Tax (Appeal)-3, Chennai dated 31/03/2016 for assessment year 2007-08, against the order of the Deputy Commissioner of Income Tax company circle V(1), Chennai - 34 dated 31/12/2010.

For Appellant :: Mr.T.Ravikumar,
Standing Counsel

JUDGMENT
(Delivered by HULUVADI G.RAMESH, 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 10.11.2016 made in ITA No.2274/Mds/2016, raising the following substantial questions of law:

> "(i)Whether the Tribunal was right in remitting the issue back to the file of AO in order to consider the order passed u/s.154 passed by the TPO especially when the said order has no bearing while computing the differential amount under Income from Other Sources or restricting the deduction u/s.10B while arriving at Arm Length Price?
>
> (ii)Whether the Tribunal was right in not considering the fact that the addition had not been

made by the assessing officer due to downward adjustment on sales but only as per Section 10B(7) r.w. Section 80IA(10) which is in line with the order passed by the TPO u/s.154?

(iii)It not the finding of the Tribunal bad especially when the order passed by AO was in line with the TPO while determining the ALP at Rs.2,77,21,753/- as against Rs.4,08,72,530/- reported by the assessee as a pointer only and had treated the differential amount to be assessed under income from other sources and restricting the deductions Section 10B(7) read with Section 80IA(10) as the assessee has shown abnormally high profits in the EOU when compared to the losses shown in the non EOU?”

2.When the matter is taken up for admission, the learned Standing Counsel appearing for the appellant brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.07.2018 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 questions of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar

//True Copy//

KM
Sub Assistant Registrar

To

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

2) The Deputy Commissioner of Income Tax,
Company circle V(1), Chennai.

3) The Commissioner of Income Tax (Appeal)-3, Chennai

4) The Commissioner of Income Tax,Chennai-34

+1 cc to Mr.T.Ravi Kumar, Advocate, SR No.75609

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SSM(26/12/2018)