IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.1127 to 1129 of 2008

The Commissioner of Income Tax,
Chennai. .. Appellant in all the appeals

Vs.

M/s.Dart Express India Ltd.,
29, LDG Road, Little Mount,
Saidapet, Chennai-600 015. .. Respondent

Prayer : Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'A' Bench, dated 14.12.2007 in ITA Nos.1574/Mds/2006, 2030/Mds/2006 and 2321/Mds/2006 for the Assessment Year 2001-2002, 2002-2003 and 2003-2004 respectively.

* * *
For Appellant in all : Mr.T.Ravikumar
the appeals Senior Standing Counsel

For Respondent in : Mr.R.Sivaraman
all the appeals

C O M M O N J U D G M E N T

[Judgment of the Court was delivered by T.S.Sivagnanam, J.]
Heard Mr.T.Ravikumar, learned Senior Standing Counsel and Mr.R.Sivaraman, learned counsel for the respondent.

2.These appeals have been filed by the Revenue challenging the order dated 14.12.2007 in ITA Nos.1574/Mds/2006, 2030/Mds/2006 and 2321/Mds/2006 for the Assessment Year 2001-2002, 2002-2003 and 2003-2004 respectively.

3. The above appeals have been admitted on 30.07.2008 on the following substantial questions of law :
1. Whether on the facts and circumstances of the case, the Tribunal was right in deleting the cash paid as speed monies to the officials in contradiction to the explanation to Section 37(1) of the Income Tax Act, 1961 ?
2. Whether on the facts and circumstances of the case, the Tribunal was right in deleting the

disallowance of excessive and unreasonable marketing fee paid, as per Section 40(A)(2)(a) of the Act, to the specified/related company as mentioned in Section 40(A)(2)(b) of the Act ?

4. It may not be necessary for us to answer the above substantial questions of law, as the monetary limit involved in these appeals is lesser than the amount fixed by the circular instructions issued by the Central Board of Direct Taxes. This Court had an occasion to consider the effect of that circular in TCA.No.395 of 2018 dated 24.7.2018, the relevant portions of which, are as follows :
4. Further, it is relevant to note that by Circular No.3/2018, dated 11.7.2018, monetary limit has further been increased and appeals be maintainable before the High Courts. It has been increased to Rs.50,00,000/-. Hence, viewed from any angle, this appeal could not have been filed.
5. Thus, by applying the above Circular issued by the CBDT, this appeal ought not to have been filed by the Revenue and hence, for that reason, this tax case appeal is dismissed and the substantial questions of law, framed for consideration, are left open.

5. In the light of the above, the above appeals are dismissed. No costs. The substantial questions of law are left open for consideration.

(T.S.S., J.) (V.B.S., J.)

03.09.2018

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To

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

2.The Commissioner of Income Tax,
Chennai.

3.The Commissioner of Income Tax (Appeals),
Chennai.

T.S.SIVAGNANAM, J.
and
V.BHAVANI SUBBAROYAN, J.

gg

03.09.2018