IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM :

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

Tax Case Appeal No.660 of 2014

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

-vs-

M/s.Teledata Marine Solutions Limited,
(formerly Sirus Shipping Company Ltd.)
Teledata Tower,No.37/1, Velacherry,
Tambaram Main Road,
Velacherry, Chennai-600 034. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai "A" Bench, dated 16.06.2011 in I.T.A.No.95/Mds/2011, for the assessment year 2003-04, as against the order of the Commissioner of Income Tax (Appeals)-V, Chennai-34 dated 21/10/2010 in I.T.A.No.161/2008-09 in PAN/GIR No.AABCS0621H for the Assessment Year 2003-04 against the Assistant Commissioner of Income Tax VI(2) Chennai-34 in No.147/143(3) dated 12/12/2018.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel
and Ms.V.Pushpa,
Junior Standing Counsel

JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

This appeal, by the appellant/Revenue, is directed against the order of the Income Tax Appellate Tribunal Chennai "A" Bench, dated 16.06.2011 in I.T.A.No.95/Mds/2011, for the assessment year 2003-04.

2.Heard Mr.M.Swaminathan, learned Senior Standing Counsel and Ms.V.Pushpa, learned Junior Standing Counsel for the Revenue.

3.The above appeal has been admitted on 17.11.2014, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in upholding the order passed by the Commissioner of Income Tax (Appeals) who had deleted the addition of Rs.86.60 Lakhs made by the Assessing Officer disallowing the claim of deduction under Section 33AC of the Income Tax Act?
>
> (ii) Whether the assessee is entitled to deduction under Section 33AC of the Income Tax Act even if he does no own a ship while claiming deduction?"

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, this appeal is dismissed and the substantial questions of law, framed for consideration, are left open. 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. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal Chennai "A" Bench.

2.The Commissioner of Income Tax (Appeals)-V
121, Mahatma Gandhi Road,
Chennai 600 036.

3.The Assistant Commissioner of Income Tax VI (2),
Chennai-34.

4.The Commissioner of Income Tax,
Chennai.

+1cc to M/S.M.Swaminathan, Advocate Sr.76133

T.C.A.No.660 of 2014

spd[co]
srg 18/12/2018