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.756 of 2014

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

-vs-

M/s.Transys Technologies Pvt., Ltd.,
(Now merged with Quintegra Solutions Ltd.)
No.140, Marshalls Road,
Egmore, Chennai-600 008. ...Respondent

Tax Case Appeal filed under section 260A,of the Income Tax Act,1961 against the order of the Income Tax Appellate Tribunal Chennai 'D' Bench dated 16.02.2012 in ITA No. 2021/mds/2010 for the assessment year 2003-04 against the ITA No.23/2006-07 dated 19.08.2006 passed by the commissioner of Income Tax (Appeals) -V, against PAN No. AAACT4042J against the Assessment order dated 24/03/2006 passed by Income Tax officer (OSD) Companay Circle V(2), Chennai for the Assessment year 2003 -04.

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

For Respondent : No Appearance

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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 “D” Bench, dated 16.02.2012 in I.T.A.No.2021/Mds/2010, 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 25.09.2014, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in upholding the order of CIT(A) who reduced the expenses incurred in foreign exchange both from export turnover and total turnover while calculating deduction under Section 10A?
>
> (ii) Whether the finding of the Tribunal is proper especially when the export turnover had been defined as given in clause (iii) below explanation (2) to Section 10B permits reduction of expenses in foreign exchange from the export turnover and not total turnover?"

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

//True Copy//

Sub Assistant Registrar

abr

To

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

2.Commissioner fo Income Tax (Appeals)-V
Chennai -34.

3.The Income Tax Officer(OSD),
Company Circle V(2), Chennai.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.76135

T.C.A.No.756 of 2014

RGN(CO)

rrs 13/12/2018