IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6.9.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Nos.1459 & 1460 of 2008

Commissioner of Income Tax
Chennai. ...Appellant in both cases

Vs.

M/s.Lucas TVS Ltd.,
M.T.H.Road, Padi,
Chennai 600 050. ...Respondent in both cases

Tax Cases filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 15.2.2008 made in ITA Nos.30/Mds/2007 and 119/Mds/2007 for the Assessment Year 2003-2004 in ITA Nos.30/mds/2007 and 119/mds/2007 against the Commissioner of Income Tax (Appeals)-III,Chennai in ITA No.69/2006-07/A.III, date of Order 01.12.2006 in PAN-AAA Claimant 3/63E for the Assessment Year 2003-2004 against the Income Tax Officer, Company Ward II,(1), Chennai in G.I./P.A.No.AAACL 3763 E for the Assessment Year 2003-2004, dated 10.03.2006.

For Appellant : Mr.Karthik Ranganathan,
Senior Standing Counsel

For Respondent : No appearance.

COMMON JUDGMENT
(Delivered by DR.VINEET KOTHARI,J)

These Tax Cases have been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 15.2.2008 made in ITA Nos.30/Mds/2007 and 119/Mds/2007, for the Assessment Year 2003-2004, by raising the following substantial questions of law:

"TCA 1459/2008
i) Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that interest under Section 234D of the Income Tax Act

cannot be charged in respect of refund granted prior to the insertion of section 234D, when the regular assessment was completed only subsequent to the insertion of section 234D of the Act?

ii) Whether, on the facts and in the circumstances of the case, no interest can be charged even for the period subsequent to the introduction of section 234D of the Act merely on the ground that the refund was granted prior to its introduction?

TCA 1460/2008
Whether, on the facts and in the circumstances of the case, the Tribunal was right in disallowing the 5% allocation of expenses attributable to the earning of the dividend income, when the same was justified in view of the proviso to section 14A of the Act?"

2. When the matters are taken up for hearing, learned Senior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, 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.1,00,00,000/- (Rupees One Crore).

3. In the instant cases, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeals filed by the Revenue are dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

ssk

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Income Tax
Chennai.

2. The Income Tax Appellate Tribunal,
'B' Bench, Chennai.

3. The Commissioner of Income Tax,
(Appeals-III), Chennai -34.

4. The Income Tax Officer
    Company Ward-II(1),Chennai.

5. The Income Tax Officer (OSD)
    Company Circle-II(4),
    Chennai 600 034.

+1cc to Mr.Subbaraya Aiyar Padmanabhan, Advocate, SR.No.77651/19

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Kak(24/10/2019)
Kak(11/11/2019)