IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 1.2.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case Appeal No.1022 of 2009

The Commissioner of Income Tax
Tamil Nadu VIII, Chennai ...Appellant/Appellant

Vs.

M/s.International Services,
Harbour Gate House, 44-45,
Rajaji Salai, Chennai 600 001.
PAN No.AAAF10228E ...Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai, dated 19.3.2009 made in ITA No.1895/Mds/2006 and this Appeal preferred against the Commissioner of Income Tax (Appeals)XI, No.121, Mahatma Gandhi Road, Chennai-34, dated 10.4.2006 made in ITA 174/2005-2006 for the Assessment Year 1998-99 and this appeal preferred against the Joint Commissioner of Income Tax Special Range VII, Chennai dated 21.3.2001 made in PAN/GIR No.AAAF10228E for the Assessment Year 1998-99.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel

For respondent : Mr.A.S.Sivaraman for
Mr.S.Sridhar

J U D G M E N T

(Delivered by DR.VINEET KOTHARI,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, 'A' Bench, Chennai, dated 19.3.2009 made in ITA No.1895/Mds/2006, by raising the following substantial question of law:

"Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the non-compete fee received by the assessees was a capital receipt to the tune of 1,00,000 US$, 7,50,000 US$ respectively, even though it should be treated as revenue receipt as per the decision of the Madras High Court in the case of K.Ramaswamy Vs. Commissioner of Income Tax reported in 261 ITR 356 in an identical issue?"

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 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 said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial question of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssk.

1. The Commissioner of Income Tax (Appeals) XI
No.121, Mahatma Gandhi Road,
Chennai-34.

2. Income Tax Appellate Tribunal,
Madras 'A' Bench, Chennai

3. The Joint Commissioner of Income Tax,
Special Range VII,
Chennai-34.

+1cc to Mr.M.Swaminathan, Advocate sr.8626
+1cc to Mr.S.Sridhar, Advocate Sr.9848

TCA No.1022 of 2009

kj[co]
srg 1/3/2019