IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2019

CORAM

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

Tax Case Appeal Nos.1232 to 1235 of 2009

Commissioner of Income Tax
Chennai. .. Appellant/Respondent in all the Appeals

Vs.

M/s.Cairn Energy India Pvt. Ltd.,
Wellington plaza, II floor
90 Anna salai
Chennai-600 002.
PAN AAACC3097L .. Respondent/Appellant in all the Appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, dated 20.02.2009 made in ITA Nos.208 to 211/Mds/2006.

TCA No.1232 to 1235/2009:

Against the order of the commissioner of Income Tax (Appeals)-XI, Chennai-34 made in ITA.Nos.23/04-05, 312/2001-02, 350/01-02 and 26/04-05 dated 26.10.2005 against the order of the Assistant Director of Income Tax, (International Taxation) Chennai made in PAN/GIR Nos.AACC3097L/10-C dated 25.02.2004 for the Assessment year 1996-97, 1997-98, 1998-99, and 1999-2000 respectively.

In all the Appeals:

For Appellant in all TCA : Mr.Karthik Ranganathan Senior Standing Counsel

For Respondent in all TCA : Ms.Gayathri for M/s.M.V.S.Chamber

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

(Delivered by DR.VINEET KOTHARI,J)

The Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'D' Bench, dated 20.02.2009 made in ITA Nos.208 to 211/Mds/2006, by raising the following substantial questions of law:

> "Whether on the facts and circumstances of the case, the Tribunal was right in holding that the assessee was not liable to disallowance under Section 40(a)(i) on its payment to its parent company in Australia without deduction of tax on the ground that since the special provisions of Section 42 are applicable to it, the other provisions of the Act cannot be applied?”

2. When the appeals are taken up for hearing, the learned Senior Standing Counsel for the Department 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 only).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeals filed by the Revenue are dismissed, as not pressed, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(Insp cell)

//True Copy//
Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal
Madras 'D' Bench, Chennai.

2.The Commissioner of Income Tax(Appeals)XI,
Chennai-34.

3.The Assistant Director of Income Tax,
(International Taxation), Chennai.

T.C.A.Nos.1232 to 1235 of 2009

NMI(CO)
CB(05/11/2019)