IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2019

CORAM :

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

Tax Case Appeal Nos.422 to 425 of 2010

The Commissioner of Income Tax,
Chennai. ... Appellant in all appeals

Vs.

M/s.Mount Mettur Pharmaceuticals Ltd.,
32, 9th Street, Dr.Radhakrishnan Salai,
Chennai-600 004. ... Respondent in all appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 28.03.2008 made in ITA No.340/Mds/02; ITA No.850/Mds/2001; ITA No.886/Mds/2001 and ITA No.503/Mds/02 against the order dated 25.01.2002 and 20.02.2001 and made in I.T.A. Nos. 263/2001-2002 and 122/2000-2001 on the file of the Commissioner of Income Tax (appeals)V, and the Commissioner of Income Tax (Appeals-IX) Chennai and against the order dated 28.03.2001 and 31.03.2000 and made in PAN/GIR No. AAACM7773K/27-M and PAN/GIR.No. 27-M on the file of the Joint Commissioner of Income Tax, Special Range II, Chennai 34 respectively

For Appellant : Mr.V.Rajesh
Jr. Standing Counsel

For Respondent : No Appearance

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

These Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, by raising the following substantial questions of law:

"1.Whether in the facts and circumstances of the case, the Tribunal was right in holding that the action of the assessee to enter into agreement to develop/sell the land in not a business activity to earn business profits?

2.Whether in the facts and circumstances of the case, the Tribunal was right in holding that the transfer of the land of the assessee had taken place as per the Section 2(47) of the Income-tax Act for the purpose of computation of the capital gains?

3.If the answer to the above is in affirmative, whether the Tribunal was right in holding that the assessee is hit by the provisions of Section 54G(2) and is eligible for the exemption of the capital gains that was not appropriated towards purpose mentioned in clause a to d of Section 54G(1)? And

4.Whether the Tribunal was right in holding that exempted capital gain under Section 54F had to be excluded from the book profits u/s.115JA?"

2. When these matters are taken up for hearing, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 08.08.2019 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 Crore.

3. In these cases, the tax effect are 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 an appropriate cases.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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To:

1. The Registrar,
Income Tax Appellate Tribunal,
Madras "B" Bench,
Chennai.

2. The Commissioner of Income Tax (Appeals)-V,
121, Mahatma Gandhi Road,
Chennai-34.

3. The Joint Commissioner of Income-tax,
Special Range II, Chennai-34.

4.The Commissioner of Income Tax
Chennai.

VD(CO)
SP(30/10/2019)