IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2019

CORAM

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

Tax Case Appeal No.123 of 2011

Commissioner of Income Tax -1,
Chennai. .. Appellant

Vs.

M/s. Transworld Garnet India Private Ltd.,
Ramaniyam Arcade, III Floor,
E-28, II Avenue, Besant Nagar,
Chennai 600 090. .. Respondent

Appeal under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'C' Bench dated 14.10.2010 - ITA No.1399/Mds/2009 Assessment year 1997-1998.

TCA.No.123 of 2011 preferred against the Commissioner of Income Tax(Appeals) XII, Chennai made in ITA.No.376/2007-08 dated 29/05/2009 for the assessment year 1997-98 against the order of the Assistant Commissioner of Income Tax, Company Circle-III(2), Chennai dated 27.02.2004 for the assessment year 1997-98.

For Appellant : M/s.V.Pushpa
Junior Standing Counsel. I/T.

For Respondent : Mr.T.K.Bhaskar

JUDGMENT
(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, Chennai 'C' Bench, dated 14.10.2010, in ITA No.1399/Mds/2009 Assessment year 1997-1998, by raising 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 confirming the order of the Commissioner of Income Tax (Appeals) deleting the disallowances towards pre-production expenses viz., (i) 20% of

expenses of Rs.1,69,57,073/- (which have been disallowed on adhoc basis), (ii) remuneration to Managing Director a sum of Rs.39,00,000/- (iii) a sum of Rs.50,09,291/- (disallowed by the Assessing Officer for want of complete details)?

2) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in confirming the order of the Commissioner of Income Tax (Appeals) restricting the disallowance of trading loss to Rs.8,82,895/- as against Rs.35,06,713/- made by the Assessing Officer?

3) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deciding the issues referred to in the preceding questions without considering the specific grounds of appeal raised by the Revenue in the appeal before the Tribunal?

4) Whether on the facts and in the circumstance of the case, the Income Tax Appellate Tribunal was right in not holding the C.I.T.(Appeals was wrong in deleting the above circumstances without calling for a remand report from the Assessing Officer?'"

2. When the matter is taken up for hearing, learned 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).

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 withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal,
Chennai 'C' Bench,
Chennai.

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

3.The Assistant Commissioner of Income Tax,
Company Circe -III(2),
Chennai.

+1 cc to M/s.M.Swaminathan, Advocate Sr.No.76418

AKM/14.10.19/3P-5C /

TCA No.123 of 2011