IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.8.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.249 of 2011

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

Vs

M/s.Alstom Ltd., Chennai-18. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 19.11.2010 made in ITA.No.408/Mds/2004 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2003-04 against the order passed by the Commissioner of Income Tax (Appeals)-XI chennai 34 dated 29.12.2003 made in ITA.No.46/2003-2004/A XI, and against the order Income Tax Officer(International Tax officer)-II Chennai 600 034, chennai 600 034 in TAN A-02818-E.

For Appellant: Mr.T.Ravikumar, SSC and
Mrs.R.Hemalatha, SSC

For Respondent: Mr.M.P.Senthilkumar

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.Ravikumar and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant - Revenue and Mr.M.P. Senthilkumar, learned counsel appearing for the respondent - assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 19.11.2010 made in ITA. No.408/Mds/2004 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2003-04.

3. The appeal was admitted on 05.7.2011 on 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) canceling the orders of the Assessing Officer under Sections 201(1) and 201 (1A) in respect of payments made to M/s.Equant, U.K., on the ground that the payment could not be held as made for technical services nor was it a case of royalty without considering the specialized nature of the services rendered and use of equipments and process provided as detailed in the executive summary of the contract ?
>
> ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in concurring the view of the Commissioner of Income Tax (Appeals) that the payments were only towards provision of standard facilities, wrongly applying the decision of the Madras High Court in the case of Skycell Communications Ltd. Vs. DCIT [reported in 251 ITR 53] ? and
>
> iii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that there was justification for a conviction on the part of the assessee company at the time of payment to the non resident company that no tax was deductible at source?"

4. The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

RS

To
1.THE INCOME TAX APPELLATE TRIBUNAL, CHENNAI 'D' BENCH.CHENNAI

2.THE COMMISSIONER OF INCOME TAX(APPEALS)-XI CHENNAI

3.THE INCOME TAX OFFICER(INTERNATIONAL TAX OFFICER)-II CHENNAI 600 034
+1cc to Mr.T.Ravikumar , Advocate SR.No. 70543
+1cc to Mr.Philip George, Advocate SR.No. 71129

TCA.No.249 of 2011

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A.SK(15/10/2019)