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.253 of 2011

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

Vs

M/s.UVW Apparels (P) Ltd.,
Chennai-17 ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 23.3.2009 made in ITA.No.1372/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2001-02 against the appellate order of the Commissioner of Income Tax (Appeals) VIII, Chennai dated 31.03.2008 and made in I.T.A.No.282/2007-08 for the Assessment year 2001-2002; and against the proceedings of the Income -Tax Officer, Company Ward III(1), Chennai, dated 24.11.2006 and made in CHE/Com.CIR III(3)/UVWAPL/01-02/AAACU1434B(33009-U) for the Assessment year 2001-02.

For Appellant : Mr.M.Swaminathan, SSC assisted by Ms.V.Pushpa, SC

For Respondent : Mr.R.Venkatanarayanan for M/s.Subbaraya Aiyer Padmanabhan

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel, assisted by Ms.V.Pushpa, learned Standing Counsel appearing for the appellant – Revenue and Mr.R.Venkatanarayanan, 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 23.3.2009 made in ITA.No. 1372/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2001-02.

3. The appeal was admitted on 02.8.2011 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 holding that the Assessing Officer could not rectify the intimation under Section 143(1) wherein the commission received of Rs.40,57,920/- was omitted to be reduced from the profits of business while computing the deduction under Section 80HHC read with Explanation (baa) thereto, without appreciating the amendment under Section 154(1)(b) made with effect from 01.6.1999 ? and
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> ii. Without prejudice to the preceding question, whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not upholding the order of the Assessing Officer under Section 154 at least to the extent of the excess claim for deduction under Section 80HHC made in the return, as admitted in the revised computation by the assessee in the reply to the notice under Section 154 ?"

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

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax -I,
Chennai.

3.The Commissioner of Income Tax (Appeals) - VIII,
Chennai.

4.The Income Tax Officer, Company Ward III(1),
Chennai.

+1 cc to M/s.M.Swaminathan,Advocate Sr.No. 70577
+1 cc to Mr.Subbaraya Aiyer, Advocate Sr.No.71042

AKM/27.09.19/2P-7C/

TCA.No.253 of 2011