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.52 of 2011

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

Vs

M/s.Trans India Resorts Ltd.,
Chennai-17. ...Respondent/ Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 16.7.2010 made in ITA.No.966/Mds/2001 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 1994-95 Against the order dated 30.03.2001 in IT Appeal No.18/00-01 on the file of the office of the Commissioner of Income Tax Appeals II, Chennai 34 against the order dated 30.03.2000 vide PAN/GIR NO.1-T on the file of the Deputy Commisioner of Income Tax ,Central Circle -1(2),chennai 34.

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

For Respondent: Mr.P.Chandrasekar

JUDGMENT

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.P.Chandrasekar, 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 16.7.2010 made in ITA.No. 966/Mds/2001 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for

the assessment year 1994-95.

3. The appeal was admitted on 28.2.2011 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 a part of the time share membership fees receivable from the members upfront at the time of enrollment could be deferred in the absence of any such provision in the Income Tax Act to defer revenue?
>
> ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that income from membership fee could be deferred to future years on the assumption that some unquantified future liabilities existed ? and
>
> iii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not deciding the basis, on which, the said receipts referred to in the preceding questions should be treated as deferred income ?"

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(insp cell)

//True Copy//

Sub Assistant Registrar

To
The Income Tax Appellate Tribunal, Chennai 'D' Bench.

2.The Commissioner of Income Tax Appeals II,
Chennai 34
3.The Deputy Commisioner of Income Tax,
Central Circle -1(2),chennai 34.

+1cc to Mr.P.Chandrasekar , Advocate SR.No. 71922
+1cc to Mr.M.Swaminathan , Advocate SR.No. 70580

TCA.No.52 of 2011

A.SK(23/10/2019)