IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.1.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

TAX CASE APPEAL NO.65 OF 2011

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

Vs

M/s.Dart Global Logistics P. Ltd.
Chennai-35 ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 19.7.2010 in ITA No.653/Mds/2010 on the file of the Income Tax Appellate Tribunal Madras 'A' Bench for the assessment year 2006-07 against the order of the Commissioner of Income Tax (Appeals) - III, Chennai order dated 15/02/2010 made in ITA No.142/08-09/A-III for the Assessment Year 2006-07 and against the order of the Income Tax Officer (OSD) Company Circle- I (4), Chennai made in P.A/GIR.No.AAACD3181G order dated 28.11.2008.

For Appellant : Mr.T.Ravikumar, SSC
For Respondent : Mr.R.Sivaraman

Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned Senior Standing Counsel for the appellant.

2. This appeal by the Revenue challenges the order passed by the Income Tax Appellate Tribunal, which decided the issue in favour of the assessee. The appeal was admitted on 01.3.2011 on the following substantial question of law :

> “Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the disallowance of the excessive and

unreasonable marketing fee paid as per Section 40A(2)(a) to the specified/related company as mentioned in Section 40A(2)(b)?"

3. The Revenue seeks to withdraw this appeal on account of low tax effect in terms of Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes.

4. In the light of the above, the appeal is dismissed as withdrawn and the substantial question of law framed is left open. In the event the tax effect is above the threshold limit fixed in the said circular under exceptional clauses mentioned in the 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(CO)

//True Copy//

Sub Assistant Registrar

To
1. The Income Tax Appellate Tribunal,
Madras 'A' Bench, Vhennai - 34.

2. The Commissioner of Income Tax
(Appeals)-III,
No.121,Mahatma Gandhi Road,
Chennai - 34.

3. The Income Tax Officer (OSD),
Company Circle - I(4),
Chennai.

+1cc to Mr.R.Sivaraman, Advocate, S.R.No.1107
+1cc to Mr.R.Hemalatha, Advocate, S.R.No.280

TCA.No.65 of 2011