In the High Court of Judicature at Madras

Dated : 21.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.451 of 2012

The Commissioner of Income
Tax, Chennai ...Appellant

Vs

M/s.Dorcas Market Makers P.
Ltd., Chennai-102. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 31.7.2012 made in ITA.No.67/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2007-08, against the order dated 15/10/2011 made in ITA No.402/09-10/A-III on the file of the Commissioner of Income Tax Appeals-III, No.121, Mahatma Gandhi Road, Chennai-34 against the order dated 18/12/2009 made in PAN/GIR.No.AABCD0728L on the file of the Assistant Commissioner of Income Tax, Company Circle 1(4) Chennai.

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

For Respondent: Ms.J.Sree Vidhya



Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant - Revenue and Ms.J.Sree Vidhya, 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 31.7.2012 made in ITA.No. 67/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2007-08.

3. The appeal was admitted on 20.12.2012 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 disallowance of expenditure on advertisement amounting to Rs.8,37,35,020/- shown as deferred revenue expenditure is to be allowed in entirety in the year, in which, it was incurred ?
>
> ii. Whether the Tribunal was right in dismissing the appeal of the Department especially when the advertising expenditure incurred by the assessee was towards the launch of its product medimix sandal and medimix dry skin soap, which conferred a benefit of enduring nature and therefore capital ? And
>
> iii. Whether the finding of the Tribunal was right if the entire deferred revenue expenditure is allowed in the same year as revenue expenditure then the correct picture of the profit for that year could be taxed especially when the profit of the year is decreased to a larger extent ?"

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 VIII)

//True Copy//

Sub Assistant Registrar

To

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

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

3.The Assistant Commissioner of Income Tax,
Company Circle 1(4),
Chennai.

+1cc to Mr.T.Ravikumar, Advocate Sr.71099
+1cc to the M/s.J.Sree Vidya, Advocate Sr.71728



TCA.No.451 of 2012

nrl[co]
srg 14/11/2019