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.470 of 2012

The Commissioner of Income Tax, Chennai ...Appellant/Respondent

Vs

M/s.Originwave Tehsoft Ltd., Chennai-4. ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 19.7.2012 made in ITA.No.1997/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2008-09.

against the order passed by the Commissioner of Income Tax (Appeals) V, Chennai 34, made in Appeal No. (IT(A)-V /IT.No. 119/2010-11 dated 30/09/2011 and against the Income Tax Officer, Company Ward V (i), Chennai made in PAN AAA(C) 1347R, dated 12.11.2010.

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

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

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.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 19.7.2012 made in ITA.No. 1997/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the

assessment year 2008-09.

3. The appeal was admitted on 21.12.2012 on the following substantial questions of law :

> "i. Whether, under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee is entitled for deduction under Section 10A ?
>
> ii. Whether, under the facts and circumstances of the case, the Tribunal was right in concluding that the assessee has complied with the conditions laid down under Section 10A(2)(iii) ?
>
> iii. Whether, under the facts and circumstances of the case, the Tribunal was right in deleting the disallowance made by the Assessing Officer under Section 40(a)(ia) ? And
>
> iv. Whether, under the facts and circumstances of the case, the Tribunal was right in holding that the amendment made to Section 40(a)(ia) by the Finance Act, 2010 would apply retrospectively though the amendment is made with effect from 01.4.2010 ?"

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 (CO)

//True Copy//

Sub Assistant Registrar

RS

To

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

2.The Commissioner of Income Tax (Appeals) V,
  Chennai-34.

3.The Income Tax Officer,
  Company Ward V (I), Chennai.

+1cc to Mr.Subbarayar Aiyar Padmanabhan, Advocate, S.R.No.71729

TCA.No.470 of 2012

BS(CO)
GN(13/11/2019)