IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.101 of 2015

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

Vs

M/s.Hoficons Infotech and Industrial
Services Pvt. Ltd., 6th Floor, Gee Gee Universal,
Door No.2 (Old No.16),
1B/1&2 (Old No.8), Mc.Nichols Road,
Chetpet, Chennai - 600 031. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 18.08.2014 made in ITA.No.846/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2003-04. Appeal filed against the Order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai dated 18.08.2014 passed in ITA No.846/mas/2013 Assessment Year 2003-04 Assessment Year 2003-04 against the Commissioner of Income Tax (Appeals)-1, Coimbatore date of Order 02.11.2013 in Appeal No.818/09-10 in P.A No.GIR No.AAACH9259 F Assessment Year 2003 -2004.

For Appellant : Mr.Karthik Ranganathan,
SSC assisted by
Mr.S.Rajesh, SC

For Respondent : Mr.R.Venkataraman
for M/s.Subbaraya Aiyar Padmanabhan

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J.)

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel, assisted by Mr.S.Rajesh, learned Standing Counsel appearing for the appellant/revenue and Mr.R.Venkataraman, learned counsel for M/s.Subbaraya Aiyar Padmanabhan, 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 18.08.2014 made in ITA.No.846/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2003-04.

3.The appeal was admitted on 23.03.2015 on the following substantial questions of law :

> "1) Whether the Tribunal was right in holding that the assessee's case fell under the exclusion provided u/s.9(1)(vii)(b) of the Income Tax Act especially when the assessee had not obtained any certificate u/s.195(2) of the Act for claiming exemption from the purview of TDS nor had moved any obligation in that regard before the TDS authorities?
>
> 2)Whether in the facts and circumstances of the case the Tribunal was right in deleting the disallowance made under Section 40(a)(i) of the Income Tax Act on account of non deduction of tax on payments made as service charges in foreign currency to non residents?

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.

cse

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax, (Appeals-I),
Coimbatore.

3. The Assistant Commissioner of Income Tax,
Company Circle II (2), Chennai.

+1cc to Mr.Subbaraya Aiyar Padmanabhan, Advocate, SR.No.73639

TCA.No.101 of 2015

Kak(22/10/2019)