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 Nos.258 and 259 of 2015

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

Vs

M/s.Cholayil Pharmaceuticals P. Ltd.,
1583, J Block, 15th Main Road,
Anna Nagar, Chennai - 600 040. ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 18.11.2011 made in ITA.Nos.1304 and 1305/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2004-05 and 2005-06.

against the order of the Commissioner of Income Tax (Appeals) - III, Chennai order dated 08-04-2011 made in ITA.Nos.798/06-07/A-III & 420/07-08/A-III for the Assessment Years 2004-05 to 2005-06 respectively and against the Order of Assistant Commissioner of Income Tax Company Circle I (3), Chennai order dated 12/12/2006 & 05/12/2007 made in GI/PAN.No.AAACC3123B.

For Appellant: Mr.T.Ravikumar, SSC

For Respondent: Ms.J.Sreevidhya

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel appearing for the appellant - Revenue and Ms.J.Sreevidhya, learned counsel appearing for the respondent - assessee.

2.These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated 18.11.2011 made in ITA.Nos.1304 and 1305/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2004-05 and 2005-06.

3.The appeals were admitted on 16.06.2015 on the following substantial questions of law :

> "1.Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the disallowance made under Section 36 (1)(iii) on account of interest on borrowed money which was advanced to sister concern P&N Foods Pvt. Ltd., amounting to Rs.38,56,802/- for the assessment year 2005-06 was to be allowed?
>
> 2.Whether the finding of the Tribunal is proper by deleting the addition made under Section 36(1) (iii) on account of interest on borrowed fund advanced to sister concern especially when the assessee business is not money lending business or a financial institution which lends money for others?"

4.The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 the respective cases is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeals are dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect in the respective cases 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 appeals to be heard and decided on merits. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

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

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

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

4.The Commissioner of Income Tax,
Chennai.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No. 73322
+1cc to Mr.J.Sreevidya, Advocate, S.R.No. 73632

TCA.Nos.258 and 259 of 2015

CP(CO)
GN(06/11/2019)