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.294 of 2015

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

Vs

M/s.Aircel Cellular Services Ltd.,
Fifth Floor, Spencer Plaza,
769, Anna Salai, Chennai - 600 002. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 19.04.2012 made in ITA.No.417/MDS/2009 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2005-06, against the order dated 16/01/2009 on the file of the Commissioner of Income Tax (Appeals) VIII, Chennai and against the order dated 25/09/2007 on the file of the Assistant Commissioner of Income Tax Company Circle 1(1) Chennai made in GIR No.AAACR5136R for the assessment year 2005-2006.

For Appellant : Mr.T.Ravikumar, SSC
and Ms.R.Hemalatha, SSC

For Respondent: Mr.Sathish Parasaran

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel, and Ms.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant/revenue and Mr.Sathish Parasaran, 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 19.04.2012 made in ITA.No.417/MDS/2009 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2005-06.

3.The appeal was admitted on 06.07. 2015 on the following substantial questions of law :

> "i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the addition made by the assessing officer towards provisions for doubtful debt for the purpose of computing book profit under Section 115JB is not proper?
>
> ii) Whether on the facts and circumstances of the case, the order of the Tribunal was valid especially in view of the retrospective amendment introduced to Section 115JB by Finance Act, 2009, inserting clause (i) to Explanation (1) to Section 115JB(2) with retrospective effect from 01.04.2001 by which any provisions for diminution in the value of the asset is to be added back while computing book profit under Section 115JB?"

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-V)

//True copy//

Sub Assistant Registrar

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To

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

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

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

+1cc to Mr.T.Ravikumar, Advocate SR.No.73323

TCA.No.294 of 2015

NR(CO)
GMY(01/11/2019)