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.539 of 2015

Commissioner of Income Tax,
Chennai. ...Appellant

Vs

M/s.Classic Linens International Pvt. Ltd.,
Unit 13 & 14, SDF-III, Phase II, MEPZ,
Tambaram, Chennai - 600 045. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 14.08.2013 made in ITA.No.947/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10 as against the order passed by the Commissioner of Income Tax (Appeals)IX, Chennai 34 dated 30.01.2013 made in I.T.A. No. 748/2011-2012 for the Assessment year 2009-2010 and as against the order passed by the Assistant Commissioner of Income Tax, Company Circle 1(3) Chennai 34 dated 22.12.2011 made in P.A. No./GIR. AABCC3510F for the Assessment year 2009-2010.

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

For Respondent: Mr.S.Krishnan

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.S.Krishnan, 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 14.08.2013 made in ITA.No.947/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10.

3.The appeal was admitted on 04.08.2015 on the following substantial questions of law :

> "1.Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in deleting the disallowance u/s.40(a)(i) in respect of commission paid to foreign concerns without deduction of tax at source?
>
> 2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that for the purpose of applying the formula under sub-section (4) of section 10B, the freight, or expenses, if any, incurred in foreign exchange in providing the technical services outside India ought to be excluded both from the export turnover and from total turnover even though the statue has provided for such exclusion only from the export turnover?"

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.

-s/d-
Assistant Registrar(CCC)

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)IX
Chennai 34.

3.The Assistant Commissioner of Income Tax
Company Circle-1(3) Chennai 34

+1 CC to Mr.T.Ravikumar, Advocate sr 73328

TCA.No.539 of 2015

LN(CO)
SP(30/10/2019)