IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM

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

Tax Case Appeal No.308 of 2013

Commissioner of Income Tax IV,
121, M.G.Road, Chennai-600 034. .. Appellant/Appellant

-vs-

M/s.Five Star Audio,
No.3/66, Sree Sayee Nagar,
Virugambakkam, Chennai-600 092.
PAN: AAA FF 1470 D .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 15.01.2013 on the file of the Income-tax Appellate Tribunal 'A' Bench, Chennai in I.T.A.No.1921/Mds/2012 for the assessment year 2004-05. against the order of the Commissioner of Income Tax (Appeals)-VI dated 26.07.2012 and made in ITA.NO.195/2011-12 and against the Assessment order of the Income Tax Officer media ward -1, Chennai dated 05.12.2011 for the Assessment year 2004-2005.

For Appellant : Ms.V.Pushpa,
Junior Standing Counsel
: for Mr.M.Swaminathan,
Senior Standing Counsel

For Respondent : Mr.K.Ravi

JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, is directed against the order dated 15.01.2013, passed by the Income-tax Appellate Tribunal 'A' Bench, Chennai, in I.T.A.No.1921/Mds/2012 for the assessment year 2004-05.

2.The above appeal was admitted, on 23.07.2013, 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 expenditure incurred by the assessee in acquisition of audio rights and CD & DVD rights are revenue in nature and allowable as expenditure in the profit and loss account?

(ii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in not considering the fact that the acquisition of audio rights was an intangible asset which is capital in nature and depreciation is allowable on such purchases?

(iii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in following Tribunal order when the jurisdictional High Court had reversed the order of the Tribunal in the case of M.Subramaniam which is reported in 272 ITR 525 (Mds)?"

3.Heard Ms.V.Pushpa, learned Junior Standing Counsel for Mr.M.Swaminathan, learned Senior Standing Counsel for the appellant and Mr.K.Ravi, learned counsel for the respondent.

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 08.08.2019 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 III)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Income Tax Officer,
   Media Ward I, Chennai.

2. The Commissioner of Income Tax (Appeals)-VI,
   121, Mahatma Gandhi Road, Chennai-600 034.

3. The Income-tax Appellate Tribunal 'A' Bench, Chennai.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.72338

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MP(CO)
CS/30/10/2019