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.808 to 815 of 2015

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

Vs

M/s.International Bakery Products Ltd.,
New No.34, Old No.78, 2A, II Floor,
C.S.Tower, Bazullah Road, T.Nagar,
Chennai - 600 001. ...Respondent/ Appellant

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 31.10.2012 made in ITA.Nos.1418 to 1420/Mds/2011, 1421 to 1424/Mds/2011 and 1601/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment years 1998-99 to 2000-01, 2002-03 to 2005-06 and 2001-02 against the order dated 10/06/2011 made in ITA No.543/2005-06 and 753/05-06, 754/06-07, 755/06-07, 362/07-08, 756/06-07, 363/06-07 respectively dated 10.06.11 and ITA TR No.352/04-05/ITA No.182/04/05 dated 14.03.06 passed by the Commissioner of Income tax (Appeals) III, and XI respectively Chennai-34 and against the order dated 28/12/2005 11/12/2006, 11/12/2006, 29/3/2004 11/12/2006, 27/11/2007, 11/12/2006 and 27/11/2007, passed by the Assistant Commissioner of Income Tax, Company circle II(3), Chennai-34 in G.I No/PA No.1x3-078/AAAC13548C.

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

For Respondent:Mr.R.Saravana Kumar

COMMON 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.Saravana Kumar, 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 31.10.2012 made in ITA.Nos.1418 to 1420/Mds/2011, 1421 to 1424/Mds/2011 and 1601/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment years 1998-99 to 2000-01, 2002-03 to 2005-06 and 2001-02.

3.The appeals were admitted on 21.12.2015 on the following substantial questions of law :

> "1.Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the addition of Rs.25 lakhs made on account of goodwill (restrictive covenant) is to be allowed as deferred revenue expenditure?
>
> 2.Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the amount of Rs.250 lakhs though termed as "goodwill" was in fact non compete fee paid by the assessee even though the assessee is not a party to the agreement and doing job work for the Auro Food Ltd. and Britannia Industries Ltd?"

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-IV)

//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 Commissioner of Income Tax (Appeals) XI, Chennai.

4. The Assistant Commissioner of Income Tax,
Company Circle II(3), Chennai-34

SAI(CO)
GMY(06/11/2019)