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.853 of 2015

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

Vs

M/s.KH Shoes P. Ltd.,
KH Centre, College Road,
Nungambakkam, Chennai - 600 034. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 28.03.2014 made in ITA.No.194/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2010-11 against the Order dated 10.09.2013 made in ITA Nos.460,501 & 616/2013-14 on the file of the Commissioner of Income Tax (Appeals)-II, Chennai -34, for the Assessment Year 2008-09, 2009-10 & 2010-11 and against the Order dated 22.03.2013 made in PAN/GIR No.AAACK 1426B on the file of the Commissioner of Income Tax Company Circle-I (4) Chennai -34, for the Assessment Year 2010-11.

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

For Respondent: Mr.A.S.Sriraman
for Mr.S.Sridhar

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.A.S.Sriraman, learned counsel for Mr.S.Sridhar, 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 28.03.2014 made in ITA.No.194/Mds/2014 on the file of the Income

Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2010-11.

3.The appeal was admitted on 25.11.2015 on the following substantial questions of law :

> "1) Whether, on the facts and in the circumstances of the case, the Tribunal was right in deleting the disallowances made on account of commission paid to non-resident agent on the ground that the same has not accrued in India and Section 195 has no application?
>
> 2) Is not the finding of the Tribunal bad, since as per the Explanation inserted at the end of Section 9 by Finance Act, 2010 with retrospective from 01.06.1976 according to which income of the non-resident shall be deemed to have accrued or arisen in India under clauses (v), (vi) or clause (vii) of sub-section (1) and is to be included in the total income of the non-resident whether or not he is a resident or has a place of business connection in India or has rendered services in India?"

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

//True Copy//

Sub Assistant Registrar

To

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

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

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

TCA.No.853 of 2015

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