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.902 to 905 of 2015

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

Vs

M/s.Fichtner Consulting Engineers India P. Ltd.,
No.165, 9th Floor, Menon Eternity Street, Mary's
Road, Alwarpet, Chennai - 600 016. ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 17.03.2014 made in ITA.Nos.2281 and 2282/Mds/2013 and ITA.Nos.367 and 368/MDS/2014 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench for the assessment years 2009-10 and 2010-11 and Against the order dated 28.10.2013 and made in ITA.NO.520&668/2013-2014 on the file of the Commissioner of Income Tax (Appeals) II, chennai 34 and Against the order dated 29.12.2011 and 28.03.2013 and made in PAN NOS.AAACF 5620Q and AAACF 5620Q for the Assessment years 2009-2010 and 2010-2011 on the file of the Deputy commissioner of Income tax, chennai and the Assistant Commissioner of Income tax, chennai.

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

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

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.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned counsel 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 17.03.2014 made in ITA.Nos.2281 and 2282/Mds/2013 and ITA.Nos.367 and 368/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment years 2009-10 and 2010-11.

3.The appeals in TCA.Nos.902 and 903 of 2015 were admitted on 17.11.2015 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 telecommunication and foreign travel expenditure is to be excluded from the total turnover of the assessee for the purpose of deduction claimed under Section 10A of the Income Tax Act?
>
> 2) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the expenditure incurred in foreign currency is to be excluded both from export turnover and total turnover while computing deduction under Section 10A?
>
> 3) Whether the finding of the Tribunal is proper by excluding items from the export turnover in the light of Explanation (2)(vi) to Section 10A while dealing with Export turnover?"

4.The appeals in TCA.Nos.904 and 905 of 2015 were admitted on 17.11.2015 on the following substantial questions of law :

> "1) Whether, on the facts and in the

circumstances of the case, the Tribunal was right in holding that billing in excess of revenue is not taxable for the assessment year 2009-10?

2) Is not the finding of the Tribunal bad especially when the system of accountancy followed its mercantile system and once the assessee has raised the bill, it has offered the billed value in the profit and loss account on accrual basis?"

5.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.

6.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)

//True Copy//

Sub Assistant Registrar

cse
To

1.THE INCOME TAX APPELLATE TRIBUNAL, CHENNAI B BENCH.

2.THE COMMISSIONER OF INCOME TAX, CHENNAI.

3.THE COMMISSIONER OF INCOME TAX,(APPEALS)II,
121,MAHATHMA GANDHI ROAD,NUNGAMBAKKAM, CHENNAI 34.

4.THE DEPUTY COMMISSIONER OF INCOME TAX,
COMPANY CIRCLE II(1),
ROOM NO.511,V FLOOR,NEW BLOCK,
AAYANKAR BHAVAN,
NO.121,UTHMAR GANDHI SALAI,
CHENNAI 34.

5.THE ASSISTANT COMMISSIONER OF INCOME TAX,
COMPANY CIRCLE II(1),
ROOM NO.511,V FLOOR,NEW BLOCK,
AAYANKAR BHAVAN,
NO.121,UTHMAR GANDHI SALAI,
CHENNAI 34.

A.SK(08/11/2019)