IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.113 of 2016

The Commissioner of Income
Tax, Chennai ...Appellant

Vs.

M/s.Concernia Virginia Chennai
Pvt. Ltd., Chennai-3. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 02.9.2015 made in ITA.No.816/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2008-09, against the order dated 29.12.2014, made in ITA.No.157/2010-11/A-1 on the file of the Commissioner of Income Tax(Appeals)-1, Chennai for the Assessment year 2008-09, against the order dated 30.11.2010, made in GIR/PAN.No.AACCC3386L on the file of the Assistant Commissioner of Income Tax, Company Circle -1(3), Chennai -34, for the Assessment year 2008-09.

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

Respondent : served and no appearance

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.Ravikumar and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant - Revenue.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 02.9.2015 made in ITA.No. 816/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2008-09.

3. The appeal was admitted on 16.2.2016 on the following substantial questions of law :

> "i. Whether on the facts and circumstances of the case, the Tribunal was right in holding that when an advance received for commercial transaction is reclassified as unsecured loan in the books of account, then such amount received cannot be treated as deemed dividend under Section 2(22)(e) of the Income Tax Act, 1961 ? and
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> ii. Whether the reasoning of the Tribunal is proper while deleting the additions made under Section 2(22)(e) of the Income Tax Act, 1961 ?"

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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Income Tax Appellate Tribunal, Chennai 'C' Bench.

+1 cc to M/s.T.Ravikumar,Advocate Sr.No. 75260

AKM/16.12.19/2P-3C /

TCA.No.113 of 2016