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 Nos.156 & 157 of 2016

The Commissioner of Income Tax, Chennai-34 ...Appellant

Vs

M/s.Changepond Technologies Pvt.Ltd., Chennai-603 103 ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 08.4.2015 made in ITA.Nos.1674/Mds/2013 and 876/ Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench respectively for the assessment years 2007-08 and 2006-07.

Against the Order of the Commissioner of Income Tax (Appeals)-I, IV, Chennai, dated 24.12.2013 & 22.01.2013 made in ITA.Nos.613/08-09/A1 & 120/12-13, for the Assessment Years 2008-07 & 2007-08 respectively against the order of the Assistant Commissioner of Income Tax, Company Circle - I (3), Chennai - 34 order dated 26.12.2008 & 21.12.2009 in GIR/PAN No.AABCC3252G.

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

Respondent : served and no appearance

COMMON JUDGMENT
(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. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated 08.4.2015 made in ITA.Nos.1674/Mds/2013 and 876/ Mds/2014

on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench respectively for the assessment years 2007-08 and 2006-07.

3. The appeals were admitted on 14.3.2016 on the following substantial questions of law :

> "Common Questions of law in both TCA.Nos. 156 & 157 of 2016 :
>
> "(i) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the exclusion of the establishment and maintenance expenses pertaining to foreign branches is to be made from the export turnover while claiming relief under Section 10 for the assessment year 2006-07 ?
>
> (ii) Whether on the facts and circumstances of the case, the Tribunal was right in holding that 50% of the telecommunication expenses is to be deducted both from the export turnover and the total turnover is to be made while computing the deduction under Section 10A? And
>
> (iii) Is not the finding of the Tribunal bad by granting deduction under Section 10A without set off of brought forward loses especially when Section 2(45) of the Income Tax Act clearly defines the total income as an amount referred to in Section 5, which is to be worked out after giving effect to the provisions of Sections 71 and 72 as contained in Chapter VI of the Income Tax Act ? And
>
> Additional Question of Law in TCA.No.156 of 2016 :
>
> (iv) Whether on the facts and circumstances of the case, the Tribunal was right in deleting the disallowance made under Section 14A read with Rule 8D ? and
>
> Additional Question of Law in TCA.No.157 of 2016 :
>
> (v) Whether on the facts and circumstances of the case, the Tribunal was right in deleting the disallowance made on speculation loss on foreign exchange especially when such notional losses cannot be allowed as expenditure ?"

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.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax (Appeals) - I,
121, Mahatma Gandhi Road, Chennai - 34.

3.The Commissioner of Income Tax (Appeals)-I,
121, Mahatma Gandhi Road, Chennai - 34.

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

+1cc to Mr. T.Ravi Kumar, Advocate, S.R.No. 75255

TCA.Nos.156 & 157 of 2016

CP(CO)
GN(08/11/2019)