IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM :

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

Tax Case Appeal No.185 of 2018

Principal Commissioner of Income Tax I,
No.63, Race Course Road,
Coimbatore. ...Appellant

Vs

M/s.CAI Industries P. Ltd.,
1547-A, Avinashi Road, Peelamedu,
Coimbatore - 641 004.
PAN: AABCC2146F ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 21.09.2017 made in ITA.No.356/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2013-14 Against the order of the Commissioner of Income Tax (A) , dated 30.11.2016 in ITA.NO.220/2015-2016 against the Asessment order of dated 09.03.2016 for the Asessment Year 2013-2014.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani
For Respondent: Mr.A.S.Sriraman for Mr.S.Sridhar

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J.)

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel, assisted by Ms.K.G.Usharani, learned 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 21.09.2017 made in ITA.No.356/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2013-14.

3.The appeal has been filed by raising the following substantial questions of law :

> "1.Whether the loan received from the company where the assessee company has more than 10% of share is not a deemed dividend u/s.2(22)(e) of the Income Tax Act, 1961?
>
> 2.Whether ITAT was right in not appreciating the contents in para 2.1 of the Board's circular No.19/2017 which states some illustration/examples of trade advances/commercial transactions held to be not covered u/s.2(2@)(e) of the Act, the assessee's case does not fall under anyone of the situations cited in the said circular?
>
> 3.Whether, the ITAT was right in concluding that the interdependence of both the companies for meeting several business commitments does not result in commercial nexus between the two?"

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(CS VI)

//True Copy//

Sub Assistant Registrar

cse
To

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

2.The Deputy Commissioner of Income Tax ,
Corporate Circle 2,Coimbatore

3.The Commissioner of Income Tax (A)-I ,Coimbatore

+1cc to Mr.S.Sridhar , Advocate SR.No. 74503
+1cc to Mr.T.R.senthilkumar , Advocate SR.No. 74184

TCA.No.185 of 2018

A.SK(19/11/2019)