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.55 of 2016

The Commissioner of
Income Tax, Chennai ...Appellant

Vs

M/s.Crazy Infotech Ltd.,
Chennai-83. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 10.7.2015 made in ITA.No.1226/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2007-08.

Against the Order dated 20/02/2014 made in ITA.No. 398/13-14 on the file of the Commissioner of Income Tax (A) (C) -II, Chennai and against the order dated 30/1/2019 on the file of the Deputy Commissioner of Income Tax - 1, Assessment Year 2007-08.

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

For Respondent:Ms.Sree Lakshmi Valli for Mr.G.Baskar

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 and Ms.Sree Lakshmi Valli, 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 10.7.2015 made in ITA.No. 1226/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2007-08.

3. The appeal was admitted on 08.2.2016 on the following substantial questions of law :

> "(i) Whether on the facts and circumstances of the case, the Tribunal was right in allowing depreciation on non compete fees at the rate of 25% ?
>
> (ii) Is not the finding of the Tribunal bad by allowing depreciation on non compete fees especially when the same cannot be classified as business right or commercial right as mentioned in Appendix-I of the Income Tax Rules, 1962 and as such, no depreciation is allowable ? and
>
> (iii) Is not the finding of the Tribunal bad by allowing depreciation on non compete fees especially when right to trade freely and to compete in the market is not an asset and right to personal service under a contract of service is unassignable, which cannot be bought or sold and has no actual marketable value and hence, cannot be termed as an asset ?"

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-VIII)

//True Copy//

Rs

Sub Assistant Registrar

To

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

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

3.The Deputy Commissioner of Income Tax-1,
Bhilai.

+1cc to Mr.T.Ravi Kumar, Advocate, S.R.No. 75263
+1cc to Mr.G.Baskar, Advocate, S.R.No. 75979

TCA.No.55 of 2016

NR(CO)
GN(12/11/2019)