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.578 of 2016

Principal Commissioner of Income
Tax-2, Chennai-34 ...Appellant/Appellant

Vs

M/s.Greenland Exports Pvt.Ltd.,
Chennai-17. ...Respondent/Respondent

Prayer: APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 28.12.2015 made in ITA.No.1927/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2008-09, and against the Commissioner of Income Tax(Appeals)-6, Chennai-34, dt.6.3.2005, made in ITA.No.133/CIT(A)-6/2011-12 for the assessment year 2008-2009, and against the order of the Assistant Commissioner of Income Tax Company Circle-II(2), Chennai-34, dt.16.2.12 made in PAN/GIR.No.AAACG3488P, for the assessment year 2008-2009.

For Appellant :Mr.Karthik Ranganathan, SSC assisted by Mr.S.Rajesh, SC
For Respondent:Mr.R.Sandeep Bagmar

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.R.Sandeep Bagmar, 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 28.12.2015 made in ITA. No.1927/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2008-09.

3. The appeal was admitted on 22.8.2016 on the following substantial questions of law :

> "i. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in restricting the quantum of upward revision by adopting ALP at Rs.18.18 crores as against Rs.16.42 crores determined by the Assessing officer?
>
> ii. Is not the finding of the Tribunal perverse in holding Internal TNMM (Transactional Net Margin Method) could be taken for justifying the ALP determination wherein the uncontrolled entities maintained by the assessee are associate enterprise of the group companies which is hit by Section 92A(2)(i) of the Income Tax Act? and
>
> iii. Whether on the facts and in the circumstances of the case, the Tribunal was right in not considering the fact that while computing ALP transaction with related party had been taken into account which is against the provisions of the statute?"

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//
Sub Assistant Registrar

RS

To

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

2.The Commissioner of Income Tax(Appeals)-6,
Chennai.

3.The Commissioner of Income Tax,
Company Circle-II(2), Chennai-34.

+1cc to Mr.Subbarayaaiyar Padmanabhan, Advocate SR.75930

TCA.No.578 of 2016

MR(CO)
CB(25/11/2019)