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.370 of 2018

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

Vs

M/s.Rentokil India Pvt. Ltd.,
Sreela Towers, 4th Floor, No.105,
First Main Road, Gandhi Nagar, Adyar,
Chennai - 600 020.
PAN: AADCR7629E ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 15.11.2017 made in ITA.No.2660/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2011-12 as against the Order of the Commissioner of Income Tax (Appeals)-3, No.121, Mahatma Gandhi Road, Chennai -600 034, made in ITA No.88/2013-14/CIT(A)-3,dated 30.05.2016 as against the Order of the Deputy Commissioner of Income Tax, Company Circle-V (3), Room No.407, Main Building, Aayakar Bhawan, M.G.Road, Nungambakkam, Chennai -34, made in PAN NO.AADCR7629 E, dated 05.03.2014 for the Assessment Year 2011-12.

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

For Respondent: Mr.S.P.Chidambaram

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel, and Ms.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant/revenue and Mr.S.P.Chidambaram, 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

15.11.2017 made in ITA.No.2660/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2011-12.

3.The appeal was admitted on 10.07.2018 on the following substantial questions of law :

> "i.Whether, in the case of take-over of an Entity by execution of a Business Transfer Agreement depreciation can be claimed on the list of customers by treating the same as tangible or intangible asset under Section 32 of the Income Tax Act, 1961?
>
> ii.Whether claim of depreciation on customers' list can be allowed treating the same as intangible asset, when there is no agreement or arrangement between the assessee and the customers of the Entity acquired?"

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.

cse

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax (Appeals)-3,
No.121, Mahatma Gandhi Road,
Chennai -600 034,

3.The Deputy Commissioner of Income Tax,
Company Circle-V (3),
Room No.407,Main Building,
Aayakar Bhawan, M.G.Road,
Nungambakkam, Chennai -34,

+1cc to Mr.P.Chidambaram, Advocate, SR.No. 74233
+1cc to Mr.T.Ravi Kumar, Advocate, SR.No.73653

TCA.No.370 of 2018

Kak(30/10/2019)