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.891 of 2016

The Commissioner of Income
Tax, Corporate Circle-2, Madurai ...Appellant

Vs

M/s.Yentop Manickam Edible Oils
Pvt. Ltd., Virudhunagar-626001. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 17.2.2016 made in ITA.No.1745/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10,

against the order dated 15/5/2015 made in ITA No.0045/2014-15 on the file of the Commissioner of Income Tax (Appeals)-I, Madurai for the Assessment Year 2009-2010,

against the order dated 31/3/2014 made in PAN/GIR No.AAACY1338C on the file of the Assistant Commissioner of Income Tax Circle-I, Virudhunagar for the Assessment Year 2009-2010.

For Appellant: Mr.M.Swaminathan, SSC assisted by Ms.V.Pushpa, SC

For Respondent: Mr.A.S.Sriraman

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel appearing for the appellant – Revenue and Mr.A.S.Sriraman, 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 17.2.2016 made in ITA.No. 1745/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10.

3. The appeal was admitted on 23.1.2017 on the following substantial questions of law :

> "i. Whether, on the facts and circumstances of the case and in law, the Income Tax Appellate Tribunal was correct in deleting the addition made under Section 2 (22)(e), which clearly provides that not only the payment by a private company by way of advance/loan to shareholders, but also payment by lenders to borrowing company, in which, shareholders having substantial interest of shareholding in lending company and in the borrowing company are common will attract deemed dividend ? And
>
> ii. Whether, on the facts and circumstances of the case and in law, the Income Tax Appellate Tribunal was correct and justified in holding that deemed dividend can be assessed only in the hands of the shareholder of the lending company and not the person in receipt of such loan/ advance?"

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

To

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

2.The Commissioner of Income Tax (Appeals)-I,
Madurai.

3.The Assistant Commissioner of Income Tax Circle_I,
Virudhunagar.

TCA.No.891 of 2016

rsv[co]
srg 15/11/2019