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 Nos.453 to 455 of 2018
and C.M.P.Nos.9807 and 9808 of 2018
in T.C.A.Nos.454 and 455 of 2018

Principal Commissioner of Income Tax 6,
No.121, Mahatma Gandhi Road,
Chennai - 600 034. ...Appellant

Vs

M/s.Secova E Services Pvt. Ltd.,
RR Tower III, 2nd Floor, TVK Industrial Estate,
Guindy, Chennai - 600 032.
PAN: AAHCS3174R ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 28.02.2017 made in ITA.Nos.1035, 1171 and 1172/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment years 2010-11 and 2011-12 and appeals filed against the order of the Commissioner of Income Tax (Appeals)-15 made in ITA.Nos.562/A-15/13-14 DATED 27.02.2015 in GIR NO.PAN /AAHCS 3174R for the assessment year 2011-2012 against the order of the Commissioner of the Income Tax (appeals) II made in ITA.NO.568/A-15/13-14 Dated 27.02.2015 in GIR/PAN NO. AAA HCS 317 CR for the Assessment year 2010-11 against the Assessment order made in PAN/GIR NO.AAHCS 3174 R/ 129 for the Assessment Year 2010-2011 against the Assessment order made in PAN/GIR NO.AAHCS 3174 R SE 126 for the Assessment year 2011-2012.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani
For Respondent : Mr.R.Venkatanarayanan for M/s.Subbaraya Aiyar Padmanabhan

COMMON 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.R.Venkatanarayanan, learned counsel for M/s.Subbaraya Aiyar Padmanabhan, learned counsel appearing for the respondent - assessee.

2.These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated 28.02.2017 made in ITA.Nos.1035, 1171 and 1172/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment years 2010-11 and 2011-12.

3.The appeals have been filed by raising the following substantial questions of law :

> "1.Whether the Tribunal was justified in holding that deduction u/s 10A or 10AA of the Income Tax Act should first be excluded from the profits of the year, before set off of brought forward unabsorbed depreciation pertaining to the said unit?
>
> 2.Whether the Tribunal erred in not following the decision in CIT vs. Himatasingike Seide Ltd. (Kar) 286 ITR 255 which was upheld by the Hon'ble Supreme court in 48 taxmann.com 357 (SC)?
>
> 3.Whether the Tribunal was correct in holding that telecommunication charges and expenses incurred in foreign currency to be excluded from the total turnover while computing deduction u/s 10A when the section does not provided for such exclusion?
>
> 4.Whether the Tribunal was right in directing to exclude telecommunication charges and expenses incurred in foreign currency from total turnover when these expenses are not part of total turnover and whether such direction of the Tribunal is perverse and against basic accountancy principles?"

4.The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 the respective cases is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeals are dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect in the respective cases 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 appeals to be heard and decided on merits. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

cse

To

1.THE PRINCIPAL COMMISSIONER OF INCOME TAX 6,
NO.121,NUNGAMBAKAM HIGH ROAD, CHENNAI 34

2.THE INCOME TAX APPELLATE TRIBUNAL, CHENNAI 'B' BENCH.

3.THE COMMISSIONER OF THE INCOME TAX (APPEALS) II
NUNGAMBAKKAM, CHENNAI 34

4.THE DEPUTY COMMISSIONER OF THE INCOME TAX COMPANY CIRCLE VI (2), CHENNAI 34.

+1cc to Mr.T.R.Senthilkumar , Advocate SR.No. 74189

TCA.Nos.453 to 455 of 2018
and C.M.P.Nos.9807 and 9808 of 2018
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A.SK(08/11/2019)