IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2019

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THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE P. VELMURUGAN

T.C.A. No. 490 of 2018

Principal Commissioner of Income Tax 2,
No.121, Mahatma Gandhi Road,
Chennai 600 034. ..Appellant/Respondent

Vs.

M/s. Foxteq Services India Pvt. Ltd.,
No.28 (NP),
Thiru Vi Ka Industrial Estate,
Guindy, Chennai - 600 032. .. Respondent/Appellant

Prayer: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench dated 01.09.2016 in ITA No. 174/Mds/2016, against the order of Assistant Commissioner of Income Tax, Chennai dated 26/12/15/2011-12 and against the order of Joint Commissioner of Income Tax, Chennai, Dt.21/1/15 in F.N.F-113/TPO-1/A.Y.2011-12.

For Appellant :: Mr.Karthik Ranganathan
Senior Standing counsel

For Respondent :: Mr.S. Rajesh

J U D G M E N T
(Judgment of the Court was delivered by N.KIRUBAKARAN,J)

This Tax Case Appeal has been preferred by the Revenue against the order dated 01.09.2016 passed in ITA.No.174/Mds/2016 on the file of the Income Tax Appellate Tribunal, Madras 'D' Bench for the assessment year 2011-2012.

2.The respondent/assessee, is a private limited company engaged in the business of sale and service of computer related accessories and spares. For the assessment year 2011-2012, the Return of Income was filed by the assessee declaring total income of Rs.77,59,380/-. During the said year, as the assessee's international transactions exceeded Rs.15 crores with its Associated Enterprises, the case was referred to Transfer Pricing Officer (TPO) to determine the Arms Length Price (ALP) of the international transactions claimed by the assessee. In the order passed under Section 92CA(3) dated 21.01.2015, the TPO had made adjustments while determining the arm's length but had not made any adjustment in the working capital. Aggrieved against the TPO's order and the draft assessment order, the assessee filed objection before the Dispute Resolution panel (DRP). The DRP held that there are no valid reasons to interfere with the finding of TPO and draft assessment order and directed the Assessing Officer to pass final assessment order accordingly.

3. Aggrieved by the final assessment order of the Assessing Officer, the assessee filed an appeal before the Income Tax Appellate Tribunal. The Appellate Tribunal, observing that the matter needs to be reconsidered, set aside the orders of the lower authorities and remitted the matter back to the file of the Assessing Officer. The Appellate Tribunal further directed that the Assessing Officer shall refer the matter once again to the TPO and the TPO shall re-examine the matter afresh in the light of the objections that may be filed by the assessee and thereafter decide the same in accordance with law. The Appellate Tribunal had also made clear it that the TPO and DRP shall dispose each and every aspect raised by the assessee and dispose of the objections filed by the assessee by a speaking order and that the order of the DRP shall contain the reasons for conclusion reached in the order. Against the order of the Appellate Tribunal only, the present appeal has been filed by the Revenue.

4.The appeal is admitted on the following substantial question of law :

> "Whether the Tribunal was justified in allowing the claim for working capital adjustment when the assessee has not demonstrated the need for the same?"

5.Mr.Karthik Ranganathan, learned Senior Standing Counsel appearing on behalf of the appellant would submit that the tax effect in this case is less than Rs.1 crore and is covered by Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, Delhi. As per the said circular, the monetary limit to file an appeal before the High Court is fixed at Rs.1 crore. In this case, tax effect is less than Rs.1 crore and therefore, the case has to be dismissed.

6.This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the said Circular, which prescribes monetary limit for filing appeal is usefully extracted as follows:

> 2.As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

S.No.	Appeals / SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appeallate Tribunal	50,00,000
2.	Before High Court	1,00,00,000
3.	Before Supreme Court	2,00,00,000

7.In view of the submissions made by the learned Senior Standing counsel appearing on behalf of the appellant and also in view of the Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Delhi, the Tax Case Appeal is dismissed on account of tax effect. However, the substantial question of law framed is left open. In the event the tax effect is above the 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(CCC)

//True Copy//

Sub Assistant Registrar

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

2.The Principal Commissioner of Income Tax-2,
No.121, Mahatma Gandhi Road,
Chennai.

3.The Joint Commissioner of Income Tax,
Transfer Pricing Officer-1, Chennai.

4.The Assistant Commissioner of Income Tax,
Corporate Circle-2(1), Chennai.

SJ(CO)
CB(10/01/2020)