IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2019

CORAM :

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

T.C.A.Nos.543 to 545 of 2018
and
C.M.P.Nos.11376 & 11377 of 2018

Principal Commissioner of Income Tax 7,
No.121, Mahatma Gandhi Road,
Chennai 600 034. ... Appellant (in all the appeals)

Vs

M/s.Tag Corporation,
91, Thiruneermalai Road,
Chrompet, Chennai 600 044.
PAN: AAA FT 1842 P ... Respondent (in all the appeals)

PRAYER : Appeals under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, dated 15.07.2016 passed in ITA.Nos.2192 to 2194/Mds/2015 against the order of the Commissioner of Income Tax (appeals)10 Chennai dated 14.09.2015 in I.T.A. No. 38/2013-2014/CIT(A)-10 and I.T.A. 45(2014-2015) and 11(2015-2016) dated 21.09.2015 against the order of the Deputy Commissioner of Income Tax, Non Corporate Circle 22 Chennai dated 28.03.2013, 26.03.2014 & 23.03.2015 in under Section 143(3) of the Income Tax Act 1961 for the Assessment year 2010-2011, 2011-2012, 2012-2013 made in PAN GIR No. AAAFT1842P

For Appellant :Mr.Karthik Ranganathan
(in all the appeals)
Senior standing counsel

For Respondent : Mr.A.S. Sriraman

COMMON JUDGMENT

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

These Tax Case Appeals have been preferred by the Revenue against the order dated 15.07.2016 passed in ITA.Nos.2192 to 2194/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment years 2010-11 to 2012-13.

2.The impugned order was filed by the Assessee aggrieved by the order of the CIT(A)-10, Chennai, dated 14.09.2015 & 21.09.2015 in ITA Nos.38, 45 & 11/2013-14/2014-15/2015-16/CIT (A)-10, passed under Section 143(3) r.w.s.250(6) of the Income Tax Act, where the Tribunal accepted the plea of the Assessee and allowed the Appeals.

3.These Appeals are admitted on the following substantial questions of law :

> "(i)Whether on the facts and circumstances of the case, the Appellate Tribunal was right in holding that the testing charges paid to a Canadian entity was not "fees for technical services" and there was no requirement to deduct tax at source under Section 195 of the Income Tax Act?
> (ii)Whether the Appellate Tribunal was correct in not considering that the provisions of Section 9(1)(vi)/(vii) as amended by insertion of Explanation by the Finance Act, 2010 with retrospective effect from 01.06.1976 and the provisions of Section 195(2) of the Income Tax Act for the testing charges? "

4.Mr.Karthik Ranganathan, learned Senior Standing Counsel appearing on behalf of the appellant would submit that the tax effect in these cases are 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 these cases, tax effect is less than Rs.1 crore and therefore, these cases have to be dismissed.

5.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

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

6.In view of the submissions made by the learned 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, these Tax Case Appeals are 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 appeals to be heard and decided on merits. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To
1.The Principal Commissioner of Income Tax 7,
No.121, Mahatma Gandhi Road,
Chennai 600 034.

2.Income Tax Appellate Tribunal 'C' Bench,
Chennai.

3.The Commissioner of Income Tax (Appeals)10
Chennai

4.The Deputy Commissioner of Income Tax
Non Corporate Circle 22
Chennai

+1 CC to Mr.S. Sridhar, Advocate sr 105093

T.C.A.Nos.543 to 545 of 2018

GP(CO)
SP(06/02/2020)