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.547 of 2018

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

Vs

M/s.Orchid Pharma Limited
(earlier known as Orchid Chemicals and
Pharmaceuticals Ltd) Orchid Towers,
313, Valluvarkottam High Road, Chennai - 600 034.
PAN: AAACO0402B ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 30.11.2016 made in ITA.No.771/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2011-12 against the Order of the Deputy Commissioner of Income Tax Corporate Circle 5(1), Room No.414, Main Building, Aayakar Bhawan, MG.Road, Nungambakkam, Chennai -34, made in PAN No. AAACO 0402B dated 26.02.16, for the Assessment Year 2011-12 against the Order of Transfer pricing Officer 2, Room No.203, II Floor, Main Building NO.121, M.G.Road, Numbambakkam, Chennai -34, made in No.O-202/TPO/2/AY.2011-12, dated 21.01.15 for the Assessment Year 2011-12.

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

For Respondent : Mr.R.Sivaraman

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.R.Sivaraman, 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

30.11.2016 made in ITA.No.771/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2011-12.

3.The appeal was admitted on 06.09.2018 on the following substantial questions of law :

> "1.Whether the Tribunal was right in holding that the provisions of Section 92A(i) if interpreted literally leads to absurd results on the ground that it did not specify any quantitative percentages as specified in clause (a) to (h) and (l) of the I.T. Act?
>
> 2.Whether the reasoning and finding of the Tribunal is correct by rejecting the order passed by the settlement commission on the same set of facts for the earlier assessment year in the case of same assessee holding that non quantification of any percentage in clause (i) does not affect the purpose of the provisions and it is intentional?"

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(CS IV)

//True Copy//

Sub Assistant Registrar

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

2. The Commissioner of Income Tax,
Chennai.

3. The Deputy Commissioner of Income Tax,
Corporate Circle 5(1),
Room No.414, Main Building,
Aayakar Bhawan, MG.Road,
Nungambakkam, Chennai -34,

4.The Transfer Pricing Officer 2,
Room No.203, II Floor,
Main Building NO.121,
M.G.Road, Numbambakkam,
Chennai -34,

+1cc to Mr.T.Ravi Kumar, Advocate, SR.No.73680

TCA.No.547 of 2018

Kak(22/10/2019)