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.570 of 2018

Principal Commissioner of Income Tax 6,
No.121, Nungambakkam High Road,
Chennai - 600 034. ...Appellant/Respondent

Vs

M/s.Saggezza India P. Ltd.,
9E, 9th Floor, IIR Madras, Research Park, Kanagam Road,
Taramani, Chennai - 600 013.
PAN: AAJCS2643H ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 22.03.2017 made in ITA.No.3323/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2012-13, against the order passed by the Deputy Commissioner of Income Tax, Corporate Circle 6(1), Chennai-34 made in PAN No.AAJCS2643H dated 27.10.2016 and against the order passed by the Ministry of Finance, Income Department, Dispute Resolution Panel-2 Bangalore, PAN.AAJCS2643H dated 26/09/2016 and against the order passed by the Income Tax Officer, Corporate Ward 6(1), Chennai-34 PAN/GIR No.AAJCS2643H dated 14/03/2016, and against the order passed by the Deputy Commissioner of Income Tax, Transfer pricing Officer-3(1), Chennai-34, made in PAN No.AAJCS2643H dated 27/01/2016.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani

For Respondent: Mr.N.P.Vijayakumar and Mr.R.Pradeep

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.N.P.Vijayakumar and Mr.R.Pradeep, 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 22.03.2017 made in ITA.No.3323/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2012-13.

3.The appeal has been filed by raising the following substantial questions of law :

> "i. Whether the Tribunal is correct and justified in deleting the addition towards arms length price made by the Transfer Pricing Officer on transaction with Associated Enterprises ?
>
> ii. Whether the Tribunal ought to have held that expenses incurred by the assessee towards employee cost and consultancy charges were for providing services to its Associated Enterprises and hence, any extra expenditure incurred towards creating additional capabilities ought to have been compensated by Associated Enterprises ? And
>
> iii. Whether the Tribunal is correct in law in holding that employees and consultancy charges, which are not relating to the projects executed and billed during the year under consideration cannot be considered as operating expenses is unreasonable when no such adjustment was made in the case of comparables considered in the transfer pricing study ?"

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 'D' Bench, Chennai.

2.The Deputy Commissioner of Income Tax,
Corporate Circle3 6(1), Chennai-34.

3.Ministry of Finance, Income Tax Department,
Dispute Resolution Panel-2, Bangalore.

4.The Income Tax Officer,
Corporate Ward 6(1), Chennai-34.

5.The Deputy Commissioner of Income Tax,
Transfer Pricing Officer 3(1), Chennai-34.

+1cc to Mr.T.R.Senthilkumar, Advocate Sr.74192

TCA.No.570 of 2018

BS(CO)
srg 31/10/2019