IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.12.2019
CORAM :
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN
T.C.A.Nos.579 to 582 of 2018

The Commissioner of Income Tax,
Chennai. ... Appellant/Appellant
(in all the appeals)

Vs

M/s.Allianz Biosciences Pvt. Ltd.,
1A, Owners Court,
22, Montieth Lane,
Egmore, Chennai 600 008. ... Respondent/Respondent
(in all the appeals)

PRAYER in TCA.No.579 of 2018: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, Chennai, dated 09.05.2017 passed in ITA.No.2225/Mds/2016.

PRAYER in TCA.No.580 of 2018: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, Chennai, dated 09.05.2017 passed in Co No.130/Mds/2016 in ITA.No.2225/Mds/2016.

PRAYER in TCA.No.581 of 2018: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, Chennai, dated 09.05.2017 passed in ITA.No.2226/Mds/2016.

PRAYER in TCA.No.582 of 2018: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, Chennai, dated 09.05.2017 passed in CO No.131/Mds/2016 in ITA.No.2226/Mds/2016, against the order of Commissioner of Income Tax(Appeals)-1, Chennai dated 29/04/16 made in ITA.NO.296/13-14(New No.ITA.203/CIT(A)-1/2013-14) and ITA.NO.341/11-12(New No.ITA.140/CIT(A)-1/2011-12), dated 29/04/16 against the Assessment order dated 28/03/13 of Deputy Commissioner of Income-Tax Company Circle-I(1), Chennai in AX-6765 AABCH2431G and Assessment order, dated 20/12/11 of Joint Commissioner of Income Tax(OSD), Company Circle-I(1), Chennai-34 made in GIR/PAN AABCH2431G for the financial year 2009-10 and 2010-11.

For Appellant :Mr.T.Ravi Kumar (in all the appeals)
Senior standing counsel

For Respondent :Mr.R.Siva Raman (in all the appeals)

COMMON JUDGMENT

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

TCA.Nos.579 & 581 of 2018 have been preferred by the Revenue against the order dated 09.05.2017 passed in ITA.No.2225 & 2226/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench.

2.TCA.Nos.580 & 582 of 2018 have been preferred by the Revenue against the order dated dated 09.05.2017 passed in CO No.130 & 131/Mds/2016 in ITA.No.2225 & 2226/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench.

3.The impugned orders were filed by the Revenue aggrieved by the orders of the CIT(A)-1, Chennai u/s.250(6) r.w.s.143(3) of the Act dated 29.04.2016 in New ITA. No.140/CIT(A)-1/2011-12 for the assessment year 2009-10 and New ITA.No.203/CIT(A)-1/2013-14 for the assessment year 2010-11, which were partly allowed by the Tribunal.

4.These Appeals were admitted on 13.11.2018 on the following substantial questions of law :

"(i)Whether the Tribunal was right in allowing the claim of deduction under Section 80 IB especially when the assessee was only manufacturing pharmaceuticals formulation on a loan license obtained from third party and took only conversion charges as a license holder for the goods manufactured?

(ii)Whether Section 2 (29BA) introduced with effect from 01.04.2009 wherein the raw materials used by the Assessee being living organisms and therefore would disentitle the assessee from claiming deduction under Section 80IB of the I.T.Act? and

(iii)Whether the Tribunal was justified in holding that the investments made in the sister concern are to be allowed under Section14A when the said provisions read with Rule 8D do not provide for any such exception in respect of exempted income?"

5.Mr.T.Ravi Kumar, 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.

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 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 questions 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.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Income Tax,
Chennai.

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

3.The Commissioner of Income Tax(Appeals)-1,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034.

4.Deputy Commissioner of Income Tax,
Company Circle-I(1),
Chennai.

5.The Joint Commissioner of Income Tax(OSD),
Company Circle-I(1),
Chennai-34.

+1cc to Mr.T.Ravikumar, Senior standing Counsel for Income Tax Department sr.102111.

T.C.A.Nos.579 to 582 of 2018

gj(co)
nr 24/01/2020