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 Nos.654 to 657 of 2018

Commissioner of Income Tax,
Corporate Circle-3, Chennai. ...Appellant/Respondent

Vs

M/s.Trimex Sands Private Limited,
No.1, Subbaraya Avenue, CP Ramaswamy Road,
Alwarpet, Chennai - 600 018.
PAN: AABCE3846Q ...Respondent/Appellant

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 26.07.2017 made in ITA.Nos.383, 384, 418 and 419/Mds/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment years 2011-12 and 2012-13 against the Order of the Commissioner of Income Tax (Appeals)-II, Chennai -34, made in ITA Nos.173/2014-15/CIT(A)-11 and 194/2015-16/CIT (A)-11, dated 30.11.2016 against the Order of the Joint Commissioner of Income Tax Company Range-III, Chennai, made in PAN No.AABCE3846Q dated 29.03.2014 and 31.03.2015 for the Assessment Year 2011-12 and 2012-13 respectively.

For Appellant : Mr.M.Swaminathan, SSC assisted by
in all TCAs Ms.V.Pushpa, SSC

For Respondent : Mr.N.Devanathan
in all TCAs

COMMON JUDGMENT

(Judgment was delivered by T.S.Sivagnanam,J)

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Senior Standing Counsel appearing for the appellant - Revenue and Mr.N.Devanathan, learned counsel appearing for the respondent - Assessee.

2.These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated 26.07.2017 made in ITA.Nos.383, 384, 418 and 419/Mds/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment years 2011-12 and 2012-13.

3.The appeals were admitted on 16.11.2018 on the following substantial questions of law :

"TCA.Nos.654 and 655 of 2018 :

i. Whether the Tribunal was right in holding that the provision of Section 14A read with Rule 8D will have no applicability if there is no exempt income received or earned during the previous year, though the disallowance is linked to expenditure incurred on investment fetching exempt income ?

ii. Whether the Tribunal was right in deleting the disallowance of interest under Section 36(1)(iii) on borrowed loans/advance diverted to the subsidiary company without charging interest ?

iii. Whether the Tribunal was right in holding that the liquidated damages received during the course of business is capital receipt and hence, not taxable as income ? And

TCA.Nos.656 & 657 of 2018 :

iv. Whether the Tribunal was right in allowing depreciation under Section 32(1)(ii) on road laid in on the land owned by the Government of Andhra Pradesh and used by the assessee as well as public holding the same as building ? "

4.The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 the respective cases is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeals are dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect in the respective cases 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 appeals to be heard and decided on merits. No costs.

cse

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal,
Chennai 'C' Bench, Chennai.

2. The Commissioner of Income Tax,
Corporate Circle-3, Chennai.

3.The Commissioner of
Income Tax (Appeals)-II,
Chennai -34,

4.The Joint Commissioner of Income Tax
Company Range-III,
Chennai.

+1cc to Mr.M.Swaminathan, Advocate, SR.No.74840

TCA.Nos.654 to 657 of 2018

Kak(07/11/2019)