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.84 of 2018

Commissioner of Income Tax,
Corporate Circle 3(2), Chennai. ...Appellant/Appellant

Vs

M/s.Youngshin Automotive India Private Limited,
Survey No.307, 310, 317,
Vayalur Road, killai Village, Sriperambudur Taluk,
Kancheepuram District - 602 105
PAN: AAACY4007A ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 01.05.2017 made in ITA.No.3266/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2012-13 and against the order of the Commissioner of Income Tax Corporate Circle 3(2) Chennai dated 30/09/2016 made in G.I.R. PAN No. AAACY4007A and against the order of the Assistant Commissioner of Income Tax Corporate Circle 3(2) dated 22.02.2016 made in PAN.AAACY4007A against the order of the Deputy Commissioner of Income Tax Chennai 34 dated 29.01.2016 made in C.I.R. No. 1/601/TPO 3(2)A1/2012-2013 for the Assessment year 2012-2013.

For Appellant : Mr.M.Swaminathan, SSC
and Ms.V.Pushpa, SC

For Respondent: Mr.R.Sandeep Bagmar

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

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel, and Ms.V.Pushpa, learned Standing Counsel appearing for the appellant/revenue and Mr.R.Sandeep Bagmar, 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

01.05.2017 made in ITA.No.3266/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2012-13.

3.This appeal was admitted on 03.04.2018 on the following substantial question of law :

> "Whether in the facts and in the circumstances of the case, the Tribunal erred in law in allowing customs duty and adjustment while determining the Arms Length Price (ALP) under Section 92C of the Income Tax Act, 1961 read with Rule 10B of the Income Tax Rules, 1962?"

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.

-s/d-
Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

To

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

2.The Commissioner of Income Tax
Corporate Circle3(2) Chennai

3.The Assistant Commissioner of Income Tax
Corporate Circle 3(2) Chennai

4.The Deputy Commissioner of Income Tax
Transfer Pricing Officer 3(2)
2nd Floor, Room No. 235 Main Building
Aayakar Bhavan
121, Mahathma Gandhi Road
Chennai 34.

+1 CC to Mr.M.Swaminathan, Advocate sr 74850.
+1 CC to Mr. Sandeep Bagmar, Advocate sr 7424

VGII(CO)
SP(24/10/2019)