IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case Appeal No.54 of 2014

Commissioner of Income Tax,
Chennai. ...Appellant

Vs.

M/s.California Software Company Ltd.,
Robert V Chandra Tower,
7th Floor, 149, Velachery Tambaram,
Main Road, Pallikaranai,
Chennai-100. ...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 29.08.2013 made in ITA No.1091/Mds/2013.

Against order dated:21/02/2013 made in ITA No.800/09-10 on the file of othe Commissioner of Income Tax (Appeals)-IX, Chennai for the Assessment year 2006-07.

Against the order dated:31/12/2009 made in GIR/PAN AABCC8506B on the file of the Assistant Commissioner of Income Tax Company Circle-1(3) Chennai for the assessment year 2006-07.

For Appellant : Ms.Hemalatha
Senior Standing Counsel

For Respondent : Mr.R.Kumar
for M/s.T.N.Seetharaman

J U D G M E N T

(Delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, by raising the following substantial question of law:

" Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the expenses incurred in foreign exchange outside India should be excluded from both export turnover and from total turnover even though Section 10B of the Income Tax Act has provided for such exclusion only from the export turnover?"

2. When the matter is taken up for hearing, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial question of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar,
Income Tax Appellate Tribunal,
Madras "C" Bench,
Chennai.

2. The Commissioner of Income Tax (Appeals)-IX,
Chennai-34.

3. The Assistant Commissioner of Income Tax,
Company Circle - I (3),
Chennai-34.

+1cc to Mr.T.Ravi Kumar, Advocate, S.R.No.12203
+1cc to Mr.T.N.Seetharaman, Advocate, S.R.No.12277

T.C.(A) No.54 of 2014

RSV(CO)
GSP(26/02/2019)