IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

TAX CASE APPEAL NOS.592 TO 594 OF 2014

The Commissioner of Income Tax,
Chennai ...Appellant

Vs

M/s.Sivagami Holdings Pvt. Ltd.,
Chennai-2 ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 15.1.2014 respectively in ITA Nos.1486 to 1488/Mds/ 2013 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench for the assessment years 2006-07, 2008-09 and 2009-10 respectively against the order of the Commissioner of Income Tax (Appeals)V, Chennai made in I.T.A.Nos.447/11-12,457/2010-11 and 444/2011-12 order dated 28/03/2013 for the Assessment Year 2006-07, 2008-09 and 2009-10 respectively and against the order of the Assistant Commissioner of Income Tax Company Circle - VI(3) made in PAN/GIR.Nos.AAEC3279-A/S187,order dated 30/12/2010, 07/12/2011 and 26/12/2011.

For Appellant : Mr.T.R.Senthilkumar, SSC &
Ms.K.G.Usharani, JSC

For Respondent: Mr.S.Sridhar

COMMON JUDGMENT

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

Heard the learned Senior Standing Counsel for the appellant.

2. These appeals by the Revenue challenge the common order passed by the Income Tax Appellate Tribunal, which decided the issue in favour of the assessee. The appeals were admitted on 27.10.2014 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the income of the assessee from sources outside Malaysia cannot be taxed in India in view of the DTAA between India and Malaysia even though the same forms part of the assessee's global income ?
>
> ii. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the Malaysia branch is a permanent establishment of the assessee in Malaysia ?
>
> iii. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the Malaysia branch is not taxable in India in view of the DTAA between India and Malaysia ?
>
> iv. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that interest under Section 234B of the Act cannot be charged on the assessee ? And
>
> v. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that interest under Section 234D of the Act cannot be charged on the assessee?"

3. The Revenue seeks to withdraw these appeals on account of low tax effect in terms of Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes.

4. In the light of the above, these appeals are dismissed as withdrawn and the substantial questions of law framed are left open. In the event, in any of the cases, the tax effect is above the threshold limit fixed in the said circular under exceptional clauses mentioned in the 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.

RS

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax (Appeals) - V,
No.121, Mahatma Gandhi Road,
Chennai - 600 34.

3.The Assistant Commissioner of Income Tax
Company Circle VI(3),
Room No.106, 7th floor,
New Block, No.121, Mahatma Gandhi Road,
Chennai -34.

+1cc to M/s.T.R.Senthil Kumar, Advocate, SR.NO.214
+1cc to M/s.S.Sridhar, Advocate, SR.NO.358.

TCA.Nos.592 to 594 of 2014

cp(CO)
kak(26/02/2019)