IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.907 of 2014

Commissioner of Income Tax, ..Appellant/ Respondent

-vs-

M/s.Sherston Educational Software Pvt. Ltd.,
Chandragiri Technopark,
Trivandrum-695 581. ..Respondent/ Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 13.06.2013, made in I.T.A.No.1866/Mds/2012 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2004-05 against the Order dated 24.01.2012 made in ITA No.204/2010-11 on the file of Commissioner of Income Tax (A)-VI, Chennai against the order dated 03.12.2007 PAN No.AAECS 65654R GIR No.SH 40 on the file of Income Tax Officer (CSD) Company Circle-VI (2) chennai for the Assessment Year 2004-05.

For Appellant : Mr.T.R.Senthil Kumar, SSC
: assisted by Ms.K.G.Usharani,
Standing Counsel

For Respondent : Mr.A.S.Sriraman For Mr.S.Sridhar

JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal, filed by the Revenue under Section 260A of the Income-tax Act, 1961 is directed against the order dated 13.06.2013, made in I.T.A.No.1866/Mds/2012 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2004-05.

2.The above appeal was admitted on 18.11.2014, on the following substantial questions of law:-

"(i) Whether under the facts and circumstances of the case, the Tribunal was right in holding that the business loss of the non STPI Unit of the assessee is to be set off only after grant of deduction under Section 10A of the Income Tax Act?

(ii) Whether under the facts and circumstances of the case, the Tribunal was right in adjudicating whether loss from non STPI unit of the assessee is to be set off before or after computing deduction under Section 10A of the Income Tax Act, though such issue was not before the Commissioner of Income Tax (Appeals)?"

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Standing Counsel for the appellant - and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned counsel for the respondent.

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 08.08.2019 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.

abr

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax (A)-VI, Chennai

3. The Income Tax Officer (CSD)
Company Circle-VI (2) Chennai

+1cc to Mr.S.Sridhar, Advocate, SR.No.72501/19
+1cc to Mr.T.R.Senthil Kumar, Advocate, SR.No.72913/19

T.C.A.No.907 of 2014

Kak(31/10/2019)