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.971 of 2014

Commissioner of Income tax,
Chennai. .. Appellant/Appellant

-vs-

M/s.AE & E Chennai Works Ltd.,
(Now known as M/s.Doosan Power
Systems India P. Ltd.,)
18/2A, Seneerkuppa Bye Pass Road,
Poonamallee, Chennai-600 056. .. Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 20.05.2014, made in I.T.A.No.680/Mds/2014 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment year 2008-09 and against file of the Commissioner of Income Tax Appeals(Central)I Chennai 34 made in I.T.A.No.198/2013-2014 dated 28.04.2013 and against file of the Deputy Commissioner of Income Tax Company Circle I(1) Chennai 34 dated 23.12.2010 made in P.A/GIR No. AABCB5946J/ AX6-739 in the Assessment year 2008-2009.

For Appellant : Mr.T.Ravikumar,
Senior Standing Counsel

For Respondent : Mr.R.Venkatanarayana,
for M/s.Subbaraya Aiyar,
Padmanabhan & Ramamani

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 20.05.2014, made in I.T.A.No.680/Mds/2014 on the file of the

Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment year 2008-09.

2.The above appeal was admitted on 09.12.2014, on the following substantial questions of law:-

> "(i) Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in deleting the addition made under Section 2(22)(e) of the Income Tax Act?
>
> (ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in not appreciating the fact that the common shareholder, viz., AE & E GMBH holds 99% of the shares in both the companies, i.e., AE & E Chennai Works Ltd and IDEA AE & E Pvt Ltd., as such the provisions of Sec.2 (22)(e) are squarely applicable to the assessee's case?
>
> (iii) Whether on the facts and in the circumstances of the case, the Income tax Appellate Tribunal is right in not appreciating the fact that any payment by a company to any concern in which such shareholder is a member or a partner and in which such shareholder is a member or a partner and in which he has a substantial interest comes within the definition of deemed dividend?"

3.Heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant and Mr.R.Venkatanarayana, learned counsel, for M/s.Subbaraya Aiyar, Padmanabhan & Ramamani, 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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

2.The Commissioner of Income Tax Appeals(Central)I
Chennai 34

3.The Deputy Commissioner of Income Tax
Company Circle I91)
Chennai 34

+1 CC to Mr.T.Ravikumar, Advocate sr 72362.
+1 CC to M/s. Subbaroya Aiyar Padmanabhan, Advocate sr 73378.

T.C.A.No.971 of 2014

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