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.972 of 2014

Commissioner of Income Tax,
121, M.G.Road, Chennai. .. Appellant/Appellant

-vs-

M/s.Pradeep Dadha Group Companies Pvt. Ltd.,
(Formerly known as TDP Technologies Pvt. Ltd.)
250, Lloyds Road, Royapettah,
Chennai-600 014.
PAN: AAB CT 5448 B .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 27.06.2014, on the file of the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.135/Mds/2013 for the assessment year 2009-10 against the order of the Commissioner of Income Tax(A) Trichy, dated 16.10.2012 made in I.T.A.No.525/11-12(A)-III and against the order of the Assistant Commissioner of Income Tax, Company Circle III(2) Chennai 600 034 dated 29.12.2011 made in G.I.R. No./PAN AABC75448B

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

For Respondent : Mr.A.S.Baalaji
for Mr.A.Ramesh Kumar

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

This appeal filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, is directed against the order dated 27.06.2014, passed by the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.135/Mds/2013 for the assessment year 2009-10.

2.The above appeal was admitted on 14.12.2015, on the following substantial questions of law:-

> "(i) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was correct in deleting the disallowance made under Section 40(a)(ia) on the payments made to non-resident agents which are in the nature of Technical Services and not mere commission?
>
> (ii) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that the sales affairs of the assessee company outside India by means of engaging an agent is not a Technical Services and would not fall under Explanation 2 to Section 9(1)(vii)?"

3.Heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant and Mr.A.S.Balaji, learned counsel for Mr.A.Ramesh Kumar, 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

abr
To
1.The Assistant Commissioner of Income Tax,
Company Circle-III(2), Chennai-600 034.

2.The Commissioner of Income-tax (Appeals), Trichy.

3.The Income-tax Appellate Tribunal 'C' Bench, Chennai.

+1 CC to Mr.T.Ravikumar, Advocate sr 77361.

EV(CO)
SP(25/10/2019)