In the High Court of Judicature at Madras

Dated : 14.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.572 of 2019

Principal Commissioner of Income
Tax-6, Chennai ...Appellant

Vs

M/s.Scope International Pvt.Ltd.
(presently known as Standard
Chartered Global Business Services
Private Limited), Chennai-34. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 18.3.2019 made in ITA.No.1864/Chny/2018 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench for the assessment year 2012-13 against the order of the Commissioner of Income Tax (Appeals)15 Chennai 34 dated 28.02.2018 in I.T.A. No. 90/2016-2017/CIT(A)-15 for the Assessment year 2012-2013.

Against the order of the Deputy Commissioner of Income Tax Corporate Circle 6(1) Chennai 34 dated 28.03.2016 in PAN/GIR.No. AAECS9043E for the Assessment year 2012-2013.

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

For Respondent:Mr.SP.Chidambaram

Judgment was delivered by T.S.Sivagnanam,J

We have elaborately heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel, assisted by Ms.K.G.Usharani, learned Junior Standing Counsel appearing for the appellant - Revenue and Mr.SP.Chidambaram, learned counsel accepting notice for the respondent - assessee.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated

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18.3.2019 made in ITA.No. 1864/Chny/2018 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench for the assessment year 2012-13.

3. The Revenue has filed this appeal by raising the following substantial questions of law :

> "i. Whether the Appellate Tribunal is correct in law in directing the inclusion of surcharge and cess in MAT credit under Section 115JAA of the Income Tax Act ? and
>
> ii. Whether the Appellate Tribunal is correct in placing reliance on the decision of the Supreme Court in the case of CIT Vs. K.Srinivasan [reported in (1972) 83 ITR 346], which was rendered in the context of Section 2 of the Act whereas Section 115JAA of the Act was inserted subsequently with retrospective effect from 01.4.1997 ?"

4. It is not disputed by the learned Senior Standing Counsel for the Revenue that in the assessee's own case, the Revenue filed an appeal in TCA.No.369 of 2019 before this Court in respect of the assessment for the year 2009-10 and that the said appeal was dismissed by us by judgment dated 19.6.2019.

5. Mr.T.R.Senthilkumar, learned Senior Standing Counsel for the appellant submits that there is a decision of the Division Bench of the Calcutta High Court in the case of Srei Infrastructure Finance Ltd. Vs. DCIT, Circle 11(2), Kolkatta [reported in (2016) 72 Taxmann.com 239], which was not placed before us when the earlier appeal was heard.

6. In any event, the judgment rendered by us in TCA.No.369 of 2019 dated 19.6.2019 in the assessee's own case for the earlier assessment year has become final and the Revenue has not preferred any appeal. There is no material placed before this Court to show that the Revenue has filed an appeal before the Hon'ble Supreme Court against our judgment. Hence, we are inclined to follow the said decision in the assessee's own case for the earlier assessment year.

7. In the light of the above, the above tax case appeal is dismissed. The substantial questions of law are answered against the Revenue. No costs.

s/d-
Assistant Registrar(CS VIII)

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Sub-Assistant Registrar

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To
1.The Income Tax Appellate Tribunal, Madras 'B' Bench.
Rajaji Bhavan
Besant Nagar, Chennai 90.

2.The Commissioner of Income Tax Appeals 15
Chennai 34.

3.The Deputy Commissioner of Income Tax
Corporate Circle 6(1) Chennai 34

+1 CC to Mr. Senthil Kumar, Advocate sr 69903

TCA.No.572 of 2019

MG(CO)
SP(13/09/2019)

HIGH COURT OF JUDICATURE MADRAS
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