IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

CORAM

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

Tax Case Appeal No.243 of 2017

Principal Commissioner of Income Tax Central 2,
No.108, Mahatma Gandhi Road,
Chennai-600 034. .. Appellant/Respondent

-vs-

M/s.Mother Mira Industries Limited,
C/o.M/s.Subbaraya Aiyar Padmanabhan
& Ramamani, Advocates,
New No.75, Old No.105A,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.
PAN: AAC CM 2392 L .. Respondent/Appellant

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 28.10.2016, made in I.T.A.No.2135/Mds/2013 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2009-10 against the Appellant order of the Commissioner of Income Tax (Appeals)-II Chennai dated 24.10.2013 and made in ITA.No.531/2013-14 for the Assessment year 2009-10; and

against the Assessment order of the Assistant Commissioner of Income TAx, Central Circle II(2), Chennai-600 034 dated 30.12.2011 and made in PAN/G.I.No.AACCM2392L for the Assessment year 2009-10.

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

For Respondent : Mr. 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 28.10.2016, made in I.T.A.No.2135/Mds/2013 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2009-10.

2.The appeal has been filed raising the following substantial questions of law:-

> "(i) Whether, on the facts and in the circumstances of the case, the ITAT is correct in law in holding that if the rental receipt had been subjected to tax in the hands of recipient, there cannot be any disallowance in the hands of the assessee under Section 40(a)(ia) of Income Tax Act, towards non deduction of tax at source on the rental receipt? and
>
> (ii) Whether, on the facts and in the circumstances of the case, the ITAT is correct in law in relying on 2nd proviso to Sub Clause (ia) of Clause (a) of Section 40, even though the same was introduced by the Finance Act, 2012 prospectively with effect from 01.04.2013 and as such not applicable for the assessment year 2009-10?"

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.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.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

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

2.THe Principal Commissioner of Income Tax Central 2
Chennai-600 034

3.The Commissioner of Income Tax (Appeals)-II
Chennai

4.The Assistant Commissioner of Income Taxe
Central Circle II(2)
Chennai-600 034

+1 cc to Mr.T.R.Senthil Kumar Advocate sr75132
+1 cc to Mr.Subbaraya Aiyar Advocate sr75142

T.C.A.No.243 of 2017

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