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.373 of 2017

Principal Commissioner of Income Tax 4,
No.121, Nungambakkam High Road,
Chennai-600 034. .. Appellant/Appellant

-vs-

M/s.MGM Transport Pvt Ltd.,
No.189, Wall Tax Road,
Chennai-600 003.
PAN: AAC CM 5458 M .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 25.11.2016, made in I.T.A.No.128/Mds/2016 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment year 2010-11, and against the order of the Commissioner of Income Tax (Appeals)-8, Chennai-34, dated 19.10.2015, made in ITA No.93/2013-14 Assessment year 2010-11, and against the order of the Assistant Commissioner of Income Tax Company Circle IV(2) Chennai, dated 30.03.2013, made in PA.NO.AACCM5458M.

For Appellant :Mr.Karthik Ranganathan,
Senior Standing Counsel
:assisted by Mr.S.Rajesh,
Standing Counsel

For Respondent :Mr.T.Vasudevan

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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 25.11.2016, made in I.T.A.No.128/Mds/2016 on the file of the

Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment year 2010-11.

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 and in law, the ITAT was right in holding that the assessee was not liable to deduct tax at source on the hire charges payments made to its sister concern as per netting formula qua payments made in furtherance to cross engagement of vehicles with its sister concern, for the purposes of application of Sec.40(a)(ia) of the Income Tax Act? and
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> (ii) Whether on the facts and circumstances of the case and in law, the ITAT was correct in deciding that shortfall in TDS does not attract disallowance u/s.40(a)(ia) of the Income Tax Act?"

3.Heard Mr.Karthik Ranganathan, learned Senior Standing Counsel assisted by Mr.S.Rajesh, learned Standing Counsel for the appellant - and Mr.T.Vasudevan, 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.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

abr

To

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

2.The Commissioner of Income Tax(Appeals)-8
Chennai-34.

3.The Assistant Commissioner of
Income Tax company circle IV(2),
Chennai.

4.The Principal Commissioner of Income Tax-4,
No.121, Nungambakkam High Road, Chennai-34.

+1cc to Mr.T.Vasudevan, Advocate SR.75290

T.C.A.No.373 of 2017

RJI(CO)
CB(19/11/2019)