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.458 of 2017

The Commissioner of Income-tax,
Chennai. ... Appellant

-vs-

M/s.Rane (Madras) Limited,
"Maithri", No.132, Cathedral Road,
Chennai-600 086. PAN: AACCR9772M ... Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 14.02.2017, made in I.T.A.No.1493/Mds/2015 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2010-11,

against the Assessment order of the Commissioner of Income Tax (Appeals)-17 Chennai in ITA No.7/2013-14 dated 22/01/2015 for the Assessment Year 2010-11, against the order of Deputy Commissioner of Income Tax Large Tax Payer Unit, Chennai in PAN AACCR9772M.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel &
: Ms.R.Hemalatha
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 14.02.2017, made in I.T.A.No.1493/Mds/2015 on the file of the Income Tax Appellate Tribunal 'C' 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 the Tribunal was right in holding that Section 40(a)(i) of the I.T.Act would not apply on the payments made by the Assessee to the non resident are not liable to be taxed?
>
> (ii) Is not the finding of the Tribunal bad, since as per Explanation to Section 9(2) introduced with retrospective effect from 01.06.1976 clearly holds that even if the non-resident has no business connection in India and has not rendered any service in India, still the income would be deemed to have accrued or arisen in India and therefore taxable? and
>
> (iii) Whether the reasoning and finding of the Tribunal is proper by holding that the services rendered by TRW Automotive, USA are not in the nature of "fee for included services" as they have not made available any technical knowledge, experience, skill, know how or process to the assessee as per Article 12 of the DTAA with USA?"

3.Heard Mr.T.Ravikumar and Ms.R.Hemalatha, 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.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

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

2. The Deputy Commissioner of Income Tax, Large Tax Payer Unit, Chennai.

3. The Commissioner of Income Tax (Appeals)-VII, Chennai-34.

+1cc Mr.S.P.Chidambaram, Advocate Sr.75150
+1cc to Mr.Subbaraya Aiyar, Advocate Sr.75137

T.C.A.No.458 of 2017

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srg 10/12/2019