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 Nos.50 and 51 of 2017

Commissioner of Income Tax,
Company Circle-III(2), Chennai. .. Appellant in both Appeals

-vs-

M/s.Textures & Weaves (India)
Private Limited, No.6/1, Silambu Stret,
Padmanabha Nagar, Choolaimedu,
Chennai-600 094.
PAN: AALCS 1660 E .. Respondent/Appellant

Appeals under Section 260A of the Income-tax Act, 1961, against the common order dated 01.07.2016, made in I.T.A.Nos.2417 & 2416/Mds/2014 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment years 2010-11 and 2009-10 respectively against the order of the commissioner of Income Tax (Appeals)-III, Chennai-34 in ITA.No.1455 and 1894/2013-14 dated 07/07/2014 against the order of the Assistant Commissioner of Income Tax, Company Circle-III (2), chennai-34 for the Assessment year 2009-2010 and 2010-2011.

For Appellant : Mr.M.Swaminathan,
(In both Appeals) Senior Standing Counsel
: assisted by Ms.V.Pushpa
Standing Counsel

For Respondent : Mr.A.S.Sriraman for Mr.S.Sridhar
(In both Appeals)

COMMON JUDGMENT



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

These appeals filed by the Revenue under Section 260A of the Income-tax Act, 1961 are directed against the common order dated 01.07.2016, made in I.T.A.Nos.2417 & 2416/Mds/2014 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment years 2010-11 and 2009-10 respectively.

2.The appeals have been filed raising the following substantial questions of law:-

> "(i) Whether on the facts and circumstances of the case and in law, Tribunal was right and justified in deleting the addition made u/s 40(a)(i) stating that providing fashion forecast and latest trends in fashion periodically so as to facilitate new merchandises cannot be considered as technical services u/s 9(i)(vii) as well as Art. 12 of Indo -US DTAA? and
>
> (ii) Whether on the facts and circumstances of the case and in law, Tribunal was correct and justified in holding that the non-resident company did not render technical services though such services can be rendered only by specialists and skilled in garment and the consideration was termed as royalty in the agreement tax at source u/s 195 on such payments for similar services?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel for the appellant - and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned Counsel for the respondent.

4.The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 appeals are 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 appeals to be heard and decided on merits. No costs.

Sd/-
Asst.Registrar (CS III )

/true copy/
Sub Asst. Registrar

abr

To

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

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

3.The Assistant Commissioner of Income Tax Company
Circle III(2), Chennai-34

+1 cc to Mr.S.Sridhar Advocate sr75277
+1 cc to Mr.M.Swaminathan Advocate sr 75039



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