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 Appeals Nos.553 and 554 of 2017

The Commissioner of Income tax,
Chennai. .. Appellant/Respondent in both Appeals

-vs-

M/s.Continental Container Freight Stations Pvt. Ltd.,
81, Samy Complex, Thambu Chetty Street,
Parrys Corner, Chennai-600 001.
PAN: AADCC3448C .. Respondent/Appellant in both Appeals

Appeals under Section 260A of the Income-tax Act, 1961, against the common order dated 25.11.2016 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.1394/Mds/2014 and I.T.A.No.136/Mds/2014 for the assessment year 2009-10.

against the Order passed by the Commissioner of Income Tax (Appeals)-1, Chennai-34, made in ITA.No. 304/11-12/A1 dated 30.09.2014 and against the order passed by the Commissioner of Income Tax, Chennai-1. Made in C.No. 218(2)/CIT-1/263/2011-12 dated 26.03.2014 and against the order passed by the Assistant Commissioner of Income Tax, Company Circle - (3) Chennai-34, made in GIR/PAN AADCC3448C, Dated 16/12/2011.

For Appellant (In both Appeals) : Ms.R.Hemalatha, Senior Standing Counsel

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

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

These appeals by the appellant/Revenue filed under Section 260A of the Income-tax Act, 1961, are directed against the common order dated 25.11.2016, passed by the Income Tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.1394/Mds/2014 and I.T.A.No.136/Mds/2014 for the assessment year 2009-10.

2.The Revenue has raised the following substantial questions of law for consideration:-

T.C.A.No.553 of 2017:-

"Whether on the facts and in the circumstances of the case the Tribunal was correct in setting aside the order passed u/s.263 of the I.T. Act by the Commissioner of Income-tax holding that the earning from container freight station was eligible for deduction u/s.80IA(4) of the Income-tax Act?"

T.C.A.No.554 of 2017:-

"Whether on the facts and in the circumstances of the case the Tribunal was correct in holding that warehousing rentals received in Corporate office, Ennore facility and Pondy CFS, Transportation cost relating to Pondicherry CFS and Tuticorin CFS and Vehicle lease and rental charges etc should not be excluded from the turnover while computing deduction u/s.80IA(4)?"

3.We have heard Ms.R.Hemalatha, learned Senior Standing Counsel for the appellant/Revenue; and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned counsel for the respondent/assessee.

4.It is not disputed by the Revenue that the substantial questions of law framed for consideration in these appeals have been answered against the Revenue by the Hon'ble Supreme Court in the case of CIT vs. Container Corporation of India Ltd., (2018) 404 ITR 0397 (SC).

5.We had an occasion to consider identical question in the case of M/s.A.S.Shipping Agencies Pvt. Ltd. vs. DCIT, Chennai [T.C.A.Nos.596 to 600 of 2019, dated 09.08.2019].

6.Following the above decisions, these tax case appeals are dismissed and the substantial questions of law are answered against the Revenue. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Assistant Commissioner of Income-tax,
Company Circle-I(3), Chennai-600 034.

2.The Commissioner of Income-tax, Chennai-I,
121, Mahatma Gandhi Road, Chennai-600 034.

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

4.The Commissione of Income Tax (Appeal)-1,
Chennai 34.

+1cc to Mr.T.Ravi Kumar, Advocate, S.R.No. 74350

T.C.A.Nos.553 and 554 of 2017

BS(CO)
GN(15/10/2019)