IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

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

Tax Case Appeal No.63 of 2017

Commissioner of Income Tax,
Corporate Circle 3, Chennai. ... Appellant/Appellant

-vs-

M/s.TTK Healthcare Limited,
No.6, Cathedral Road,
Chennai-600 006.
PAN: AABCT 3312 J ... Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 05.08.2016, made in I.T.A.No.683/Mds/2016 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2011-12,

against the order passed by the Commissioner of Income Tax (Appeals)-II, Chennai-34 made in ITA No.103/2014-15-CIT (A)-II, dated 29.12.2015 and against the order passed by the Deputy Commisioner of Income Tax Company Circle III(2), Chennai-34, made in GIR No./PAN/AABCT3312J dated 20.03.2014.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel
: assisted by Ms.V.Pushpa
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 05.08.2016, made in I.T.A.No.683/Mds/2016 on the file of the

Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2011-12.

2.The appeal has 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 holding that logo charges paid by assessee were revenue in nature even though such payment was continuously made for several years through which it got enduring benefit?
>
> (ii) Whether on the facts and in the circumstances of the case the Tribunal's finding is bad especially when as per clause 3(c) of MOU, the partner's contribution to TTK will make available the goodwill of TTK Brand name and as Joint owner of the assessee company the exploitation could only be treated in the capital nature and not revenue.
>
> (iii) Whether on the facts and circumstances of the case and in law, Tribunal was correct and justified in deleting the addition made u/s 40A(2) towards depot service charges even though the same was above market rate as evident from payment made by assessee to non-related parties for similar services? and
>
> (iv) Whether on the facts and circumstances of the case and in law, Tribunal erred in ignoring the decision of jurisdictional High Court in CIT -vs- NEPC India Ltd. (303 ITR 271) on the same issue?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, 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/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

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

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

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

+1cc to M/s.Subbaraya Aiyar, Advcoate Sr.75147
+1cc to Mr.M.Swaminathan, Advocte Sr.75040

T.C.A.No.63 of 2017

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