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.767 of 2017

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

-vs-

Sundaram Brake Linings Ltd.,
B-I, M.T.H.Road,
Padi, Chennai-600 050.
PAN: AADCS4888E .. Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 27.11.2015, made in I.T.A.No.1175/Mds/2015 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2010-11.

Appeal against the order dated 23.02.2016 made in ITA.No.283/CIT(A)-15/14-15 on the file of the Commissioner of Income Tax(Appeals)-15, Chennai -34, for the assessment year 2010-11.

Appeal against the order dated 23.03.2015 made in PAN.No.AADCS4888E on the file of the Deputy Commissioner of Income Tax Corporate Circle 6(2), Chennai -34 for the Assessment year 2010-11.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel

assisted by Ms.K.G.Usharani,
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 27.11.2015, made in I.T.A.No.1175/Mds/2015 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2010-11.

2.The appeal has been admitted on 30.01.2018, on the following substantial questions of law:-

> "(i) Whether the Tribunal erred in law in deleting the disallowance towards export commission paid to the non-resident without deduction of tax at source (TDS)?
>
> (ii) Whether the expenditure on payment in the nature of fee for technical services is liable to be disallowed under Section 40(a)(ia) of the Income Tax Act, 1961 when such payment is made without deduction of tax at source? And
>
> (iii) Whether the Assessing Officer has to establish the existence of business connection of the assessee for determination of liability to deduct tax at source?"

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, 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

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax(Appeals) -15,
121 Mahatma Gandhi Road, Nungambakkam,
Chennai -34.

3.The Deputy Commissioner of Income Tax,
Corporate Circle 6(2), Chennai -34.

+1cc to M/s.Subbaraya Aiyar, Advocate SR.No.75136
+1cc to M/s.T.R.Senthil Kumar, Advocate Sr.No.75121

AKM/14.11.19 /3P-6C/

T.C.A.No.767 of 2017