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.803 of 2017

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

-vs-

M/s.Salcomp Manufacturing India Pvt Ltd.,
Nokia Telecom SEZ, 3rd Phase,
SIPCOT Industrial Estate,
Sriperambudur, Tamil Nadu-602 105. ... Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 31.08.2016, made in I.T.A.No.2201/Mds/2012 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2008-09,

against the order of Assistant Commissioner of Income Tax Company Circle VI (1) 7th Floor 121, Mahatma Gandhi Road, Ayakar Bhavan, New Block, Chennai-34 for the PAN No.AAJCS7988P dated 24/09/2012 for the Assessment Year 2008-09 against the order of Ministry of Finance, Income Tax Department Dispute Resolution Panel (DRP) Chennai Room No.217, II Floor Main Building Aayakar Bhawan 121, Numbambakkam High Road, Chennai-34 Made in F.No.DRP/Chennai/Sectt/2012-13 dated 31.08.2012 for the Assessmetn Year 2008-09.

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

: assisted by Ms.K.G.Usharani,
Standing Counsel

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

31.08.2016, made in I.T.A.No.2201/Mds/2012 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2008-09.

2.The appeal has been filed raising the following substantial questions of law:-

> "(i) Whether on the facts and circumstances of the case the Tribunal was right in holding that purchases made by the assessee from its Associated Enterprise is at Arms Length overlooking the fact of charging mark up of 5% by the AE on its purchases from third parties which were supplied to assessee?
>
> (ii) Whether on the facts and circumstances of the case the Tribunal was right in accepting the adjustment to ALP made by the assessee by making adjustment for actual credit period availed by it when the invoices showed interest payable on overdue payment after due date which are contrary to facts?
>
> (iii) Whether on the facts and circumstances of the case the Tribunal was right in holding that interest payment by assessee to its Associated Enterprise is at Arms Length? and
>
> (iv) Whether on the facts and circumstances of the case the Tribunal was right in relying on "India's External Debt - A Status Report 2010-11", when the period in question relates to the FY 2007-08 and that the prevalent rate of interest will vary on account of varied international financial scenario?"

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

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 Commissioner of Income Tax,
Chennai.

2.The Income Tax Appellate Tribunal 'D' Bench,
Chennai.

3.The Assistant Commissioner of Income Tax,
Company Circle VI (1) 7th Floor,
121, Mahatma Gandhi Road,
Aayagar Bhavan, New Block, Chennai-34.

4.The Ministry of Finance, Income Tax Department,
Dispose Resolution Panel (DRP),
Chennai Room No.217, II Floor, Main Building,
Aayagar Bhawan, 121, Nungambakkam,
High Road, Chennai-34.

5.The Assistant Registrar,
Income Tax Appellate Tribunal,
III rd Floor, Rajaji Bhavan,
Besant Nagar,
Chennai-90.

+1cc to Mr.T.R.Senthilkumar, Advocate Sr.75120

T.C.A.No.803 of 2017

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srg 08/11/2019