IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2019

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE P. VELMURUGAN

T.C.A. No. 978 of 2019

Commissioner of Income Tax,
Chennai. ..Appellant

Vs.

M/s. Sowswe Consultants Pvt. Ltd.,
Chennai. ..Respondent

Prayer: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, dated 25.10.2002 in ITA No. 667/Mds/97 and against the order of the Commissioner of Income Tax Appeals,Chennai dated 14.11.1996 made in IT/WT/GT/Appeal No.ITA.523/94-95 and against the order of the Assistant Commissioner of Income Tax,Com.Cir IV(4), Mds-6 dated 10.02.1995 made in PAN/GIR NO.593-S for the Assessment Year 1992-93.

For Appellant :: Mr.J. Narayanasamy
Senior Standing Counsel for
Ms.Pushya Sitaraman

For Respondent :: Mr.M. Kaushik for
Mr.S. Sridhar

J U D G M E N T

(Judgment of the Court was delivered by N. KIRUBAKARAN,J.)

This Tax Case Appeal has been preferred by the Revenue against the order dated 25.10.2002 passed in ITA.No.667/Mds/97 on the file of the Income Tax Appellate Tribunal, Madras 'A' Bench for the assessment year 1992-93.

2.The respondent/assessee, a limited company, purchased certain computers under Hire Purchase Agreement from Rajalakshmi Financial Service Ltd. And New Century Leasing Ltd.. The assessee transferred these computers to its concern within the group Mega Informatics and Institute Private Limited and received a sum of Rs.7,83,000/-. The terms of transfer was that Mega Informatics and Institute Private Limited will discharge the outstanding hire purchase instalments which were to the tune of Rs.4,95,581/-. The plea of the assessee was that the amount that the assessee had received on account of the transfer was Rs.7,83,000/- and it was the only sale consideration. Therefore, the assessee, in its depreication computation, had shown an amount of Rs. 7,83,000/- as sale consideration. However, the Assessing Officer, while completing the assessment, negatived the claim of the assessee and took into account the full sale consideration of Rs.12,78,581/- for computing depreciation. As against the same, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals), which came to be dismissed confirming the order passed by the Assessing Officer. Aggrieved by the order of Commissioner of Income Tax (Appeals) dated 14.11.1996, the respondent/assessee preferred an appeal before the Income Tax Appellate Tribunal, Madras 'A' Bench and the Tribunal, by order dated 25.10.2002 upheld the claim of the assessee and allowed the appeal. Against the order of the Appellate Tribunal only, the present appeal has been filed.

3.The appeal is admitted on the following substantial question of law :

> "Whether in the facts and circumstances of the case, the Tribunal was right in law in holding that the value of the assets sold, would be exclusive of the value of the liabilities taken over by the buyer?

4.Mr.J.Narayanaswamy, learned Senior Standing Counsel appearing on behalf of the appellant would submit that the tax effect in this case is less than Rs.1 crore and is covered by Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, Delhi. As per the said circular, the monetary limit to file an appeal before the High Court is fixed at Rs.1 crore. In this case, tax effect is less than Rs.1 crore and therefore, the case has to be dismissed.

5.This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the said Circular, which prescribes monetary limit for filing appeal is usefully extracted as follows:

> 2.As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

S.No.	Appeals / SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appeallate Tribunal	50,00,000
2.	Before High Court	1,00,00,000
3.	Before Supreme Court	2,00,00,000

6.In view of the submissions made by the learned Senior Standing counsel appearing on behalf of the appellant and also in view of the Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Delhi, the Tax Case Appeal is dismissed on account of tax effect. However, the substantial question of law framed is left open. In the event the tax effect is above the 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)

//True Copy//

Sub Assistant Registrar

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To
The Income Tax Appellate Tribunal,
Madras 'A' Bench.

2.The Commissioner of Income tax ,Chennai

3.The Commissioner of Income Tax(Appeals),Chennai

4.The Assistant commissioner of Income Tax,
Com.Cir(IV),4 Madras 6

+1cc to Mr.J.Narayanasamy , Advocate SR.No. 101292

A.SK(28/01/2020)