IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM :

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

Tax Case Appeal No.756 of 2018

Principal Commissioner of Income Tax I,
63, Race Course Road, Coimbatore - 641 018.
...Appellant/Respondent

Vs

M/s.Aalaya Jewel Industry Private Limted,
80/1, 1st Floor, Govindasamy Layout,
Balaji Avenue, Coimbatore - 641 001.
PAN: AABCC2461K ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 05.04.2018 made in ITA.No.971/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2013-14. against the Order of the Assistant Commissioner of Income Tax Corporate Circle-2, Coimbatore,F.No.393/DRP-2 BNG/2016-17, dated 17.03.2017 against the Order of the Deputy Commissioner of Income Tax, Transfer Pricing Officer-1(1), Chennai -34, F.No.DCIT (TP)/A-125/TPO 1(1) Assessment Year 2013-14, dated 10.10.2016.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani

For Respondent: Mr.Joseph Prabakar

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J.)

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel, assisted by Ms.K.G.Usharani, learned counsel appearing for the appellant/revenue and Mr.Joseph Prabakar, learned counsel appearing for the respondent/assessee.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 05.04.2018 made in ITA.No.971/MDS/2017 on the file of the Income

Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2013-14.

3.The appeal has been filed by raising the following substantial questions of law :

"1.Whether the Appellate Tribunal is right in setting aside the Final Assessment Order passed on 22.03.2017 as barred limitation under sub-section 4 of section 144C of the Income Tax Act, when the assessee's objection was pending before the Dispute Resolution Panel and the DRP fixed the case for hearing on 16.03.2017 with a copy of the hearing notice marked to the Assessing Officer?

2.Whether the Appellate Tribunal is right in holding that while application filed by the assessee is pending before the Dispute Resolution Panel, the Assessing Officer should pass the Assessment Order without waiting for the directions of the Dispute Resolution Panel u/s.144(C)(5) of Income Tax Act?"

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 08.8.2019 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.

cse

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Assistant Commissioner of
Income Tax,
Corporate Circle-2,
Coimbatore

3. The Deputy Commissioner of
Income Tax
Transfer Pricing Officer-1(1),
Chennai -34.

4. The Principal Commissioner of Income
Tax-1, 63, Race Course Road,
Coimbatore

+1cc to Mr.T.R.Senthil Kumar, Advocate, SR.No.74194

TCA.No.756 of 2018

Kak(24/10/2019)