IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.01.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case Appeal Nos.1151, 1152, 1153, 1154, 1155, 1156, 1157, 1208, 1209, 1210, 1211, 1212, 1213, 1214 and 1215 of 2008

The Commissioner of Income Tax
Chennai. ... Appellant in all the Appeals

Vs.

M/s.R.K.Swamy BBDO Pvt Ltd
No.604, Anna Salai, Chennai 600 006. ... Respondent in all the Appeals

-----

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 03.11.2007 in ITA Nos.392/Mds/2006, 519/Mds/2006, 1810/Mds/2005, 965/Mds/2005, 2804/Mds/2005, 167/Mds/2006, and common order dated 30.11.2007 passed in ITA Nos.1554 to 1556/Mds/2006, ITA Nos.2093/Mds/2006, 1765/Mds/2006, 1766/Mds/2006, 1767/Mds/2006 and ITA No.2195/Mds/2006.

For Appellant : Mr.M.Swminathan, Standing Counsel
Assisted by Ms.V.Pushpa
For Respondent : Mr.A.S.Sriraman

COMMON JUDGMENT

(Judgment of the Court was delivered by DR.VINEET KOTHARI,J)

These Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that, the amounts not received from the customers for placing their advertisements in the press and electronic media could be treated as a bad debt under Section 36(2)(i) even though such amount was not offered as income as income during any previous year?

(ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that, the amounts not received from the customers for placing their advertisements in the press and electronic media could be treated as a trading loss under Section 37 of the Act?

(iii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that, the rental amounts paid to another Company under the same management in excess of the amounts paid by other tenants of the same building should not be disallowed under Section 40A(2) of the Act?

(iv) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that, the interest on borrowed amounts diverted to its sister concern as rental advances cannot be disallowed and the advances should be treated as having been made for commercial expediency?

2. When the matter is taken up for final hearing, the learned Standing Counsel brought to our notice the Circular instruction issued by the **Central Board of Direct Taxes vide Circular No.17/2019** dated **08.08.2019,** wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1 Crore (Rupees One Crore Only).

DR.VINEET KOTHARI, J.
and

R.SURESH KUMAR, J.

KST

3. In the instant cases, the tax effect is said to be less than the monetary limit imposed and therefore, the appeals filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

(V.K.,J.) (R.S.K.,J.)
13.01.2020

Index : Yes/No
Internet : Yes/No
KST

TCA Nos.1151 to 1157 of 2008 and 1208 to 1215 of 2008 etc., batch