IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2020

CORAM

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

Tax Case Appeal No.1039 of 2010

Commissioner of Income Tax
Chennai. ... Appellant

Vs.

M/s.Spencer & Co. Ltd.
Spencer Plaza 4th Floor,
769 Anna Salai,
Chennai - 02. ... Respondent

Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'B' Bench, dated 18.12.2009 in ITA.No.1528/Mds/2009, and against the order of the Commissioner of Income Tax (Appeals)-V Chennai-34, dated 16.07.2009, ITA No.287 & 288/2008-09 Assessment year 2000-01& 2006-07 and against the order of the Assistant Commissioner of Income Tax, Company Circle VI(4), Chennai-34, dated 26.12.2008 PAN/GIR No.AAACS4451J/SP.14.

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For Appellant : Mr.J.Narayana Samy
Senior Standing Counsel

For Respondent : Mr.Venkat Narayanan
For Subbaraya Aiyar Padmanaban

JUDGMENT

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

This Tax Case Appeal has 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:

"1. Whether on the facts and circumstances of the case, the Tribunal was right in upholding the CIT(A)'s deletion of disallowance of licence fee paid to RPG Enterprises?

2 Whether on the facts and circumstances of the case, the Tribunal was right in upholding the CIT(A)'s deletion of 2.56 Cr. by invoking the provision of section 14A r/2 Rule 8D? and

3. Whether on the facts and circumstances of the case, the Tribunal was right in upholding the direction of CIT(A) to Assessing Officer to adopt Rs.255.05 as the sale price of ZCCB as against the revenue's valuation at 45.05 while computing the long term capital gain?"

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)

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

4.In view of the above, the Tax Case Appeal is dismissed, with liberty to apply for recalling, in case the learned Standing Counsel for the Revenue receives the written instruction with reasons to move such application. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//
Sub Assistant Registrar

Sgl

To

1.Income Tax Appellate Tribunal,
Madras 'B' Bench.

2.The Commissioner of Income Tax,(Appeals)V
Chennai-34.

3.The Assistant Commissioner of Income Tax,
Company Circle VI(4), Chennai-34.

T.C.A.No.1039 of 2010

BR(CO)
CB(05/03/2020)