IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.9.2020

Coram :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Tax Case Appeal Nos.257 & 258 of 2020

Principal Commissioner of
Income Tax-I, Coimbatore-18 ...Appellant/ Appellant

Vs

M/s.Tamil Nadu State Transport
Corporation (Coimbatore Division)
Ltd., Coimbatore-43. ...Respondent/ Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 15.10.2019 made respectively in ITA.Nos. 1897 & 1898/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench respectively for the assessment years 2009-10 and 2014-15 and the Appellate order dated 27.03.2018 made in Appeal No.224/16-17 passed in the Commissioner of Income Tax (Appeals)-1,Coimbatore of Income Tax (Appeals)-1,coimbatore and the Assessment Year 2014-15 and the Appellate order dated 27.03.2018 made in Appeal No.101/16-17 passed in the Commissioner of Income Tax (Appeals)-1 Coimbatore for the Assessment Year 2009-2010 and the Assessment order dated 29.12.2016 made in C.NO.199/35/OSCA/16-17 PAN NO.AAACC9092 M passed in Assistant Commissioner of Income Tax,Corporate Circle 2,Coimbatore for the Assessment order dated 25.08.2016 made in PAN .NO.AAA CC9092 M passed in Assistant commissioner of Income Tax ,Corporate circle 2,coimbatore, for the Assessment Year 2009-2010.

For Appellant: Mr.T.R.Senthilkumar, SSC assisted by
Ms.K.G.Usharani, JSC
For Respondent:Mr.R.Vijayaraghavan for
M/s.Subbaraya Aiyer Padmanabhan

COMMON 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 Junior Standing Counsel appearing for the appellant - Revenue and Mr.R.Vijayaraghavan, learned counsel accepting notice for the respondent - assessee.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for brevity, the Act), are directed against the common order dated 15.10.2019 made respectively in ITA.Nos.1897 & 1898/Chny/2018 the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench (for short, the Tribunal) respectively for the assessment years 2009-10 and 2014-15.

3. The Revenue has filed these appeals by raising the following reframed substantial question of law :

> “Whether, on the facts and circumstances of the case, the order of the Appellate Tribunal is justifiable on the ground that if there is no tax merit, the assessee need not disclose the full details in the profit and loss account, which is against the Accounting Principle AS 12 ?”

4. After elaborately hearing the learned counsel for the parties and carefully perusing the common order passed by the Tribunal, we find that not only the Tribunal, but also the Commissioner of Income Tax (Appeals)-1, Coimbatore rightly deleted the addition made by the Assessing Officer in respect of the expenditure incurred by the respondent for giving concession pass to school students.

5. The Assessing Officer, while completing the assessment, held that as per the Accounting Standard 12, the Government grant that were receivable as compensation for expenses or losses incurred in a previous accounting period for the purpose of giving immediate financial support to the enterprise with no further related costs should be recognized and disclosed in the profit and loss statement of the period, in which, they were receivable as an extraordinary item. The Assessing Officer pointed out that a sum of Rs.44.06 Crores receivable from the State Government as per G.O.Ms.No.315 for the 100% and 50% concessional passes issued to students during the year 2008-09 were recognized in the profit and loss account for the year ended 31.3.2009 under the head 'Operational Income Reimbursement of Students Concessional Ticket', that the social cost to the tune of Rs.11.01 Crores to be borne by the assessee and that the operational income was not reflected in the profit and loss account.

6. Hence, the Assessing Officer came to the conclusion that as per the Accounting Principles, as soon as the bus passes were issued to students, the face value of the passes should be taken as 'operating income' and a debit entry needed to be booked against the Government account to the tune of the face value of bus passes issued minus the amount collected from the college students and after adjustment of the Government grant received/receivables, the balance unrealized debits were to be treated as 'revenue foregone' and written off as per the commercial accounting principles. With these findings, the Assessing Officer added a sum of Rs.35,63,79,855/- to the total income of the respondent - assessee.

7. Aggrieved by that, the assessee carried the matter on appeal to the CIT(A). A similar finding was rendered by the Assessing Officer for the assessment year 2014-15 also. On appeal before the CIT(A), in our considered view, the CIT(A) deleted the addition holding that the grant became payable only when the Government Order was passed, that the grant became received/receivable only when the grant was sanctioned and that it was unrealistic to compute the notional loss in such cases. It was further pointed out that no useful purpose would be served by treating the students' subsidy as income and writing off as bad debts in the books when the expenditure incurred by the Corporation was treated as social cost as per the Government Order.

8. This finding was tested for its correctness by the Tribunal, which rightly confirmed the same by dismissing the appeals filed by the Revenue. We find no error or perversity in the approach of either the CIT(A) or the Tribunal. Rather, both the First Appellate Authority and the Tribunal rightly appreciated the legal position and the purpose for incurring such an expenditure under the head 'social cost'. We find that no substantial question of law arises for consideration.

9. Hence, the above tax case appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax (Appeals)-1 Coimbatore.

3.Assistant commissioner of Income Tax ,Corporate circle
2,coimbatore.

4.The Principal Commissioner of
Income Tax-I, Coimbatore-18

+1cc to Mr.T.R.Senthil Kumar , Advocate SR.No. 28876
+1cc to M/s.Subbaraya Aiyer Padmanabhan , Advocate SR.No. 28883

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A.SK(19/10/2020)