In the High Court of Judicature at Madras

Dated : 16.6.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Tax Case Appeal No.1121 of 2015

The Commissioner of Income
Tax, Chennai ...Appellant/Respondent

Vs

M/s.MRF Ltd., Chennai-6 ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 13.5.2015 made in ITA.No.521/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2009-10. ITA.No.521/mds/2014 against the Commission of Income Tax(Appeals) Large Tax Payer Unit, Chennai-600101 in FBTA No.7/11-12/LTU(A) order dated 19/12/2013 in GI No./PAN NO-AAACM4154G for the Assessment year large Tax Payer Unit, Chennai order dated 16/12/2011 in GI No./PA No.-AAACM 4154G for the Assessment year 2009-2010.

For Appellant :Mr.T.Ravikumar, SSC &
Mrs.R.Hemalatha, SSC

For Respondent :Mr.R.Vijayaraghavan for
M/s.Subbarayar Aiyer Padmanabhan

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.Ravikumar and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant - Revenue and Mr.R.Vijayaraghavan, learned counsel appearing on behalf of M/s.Subbaraya Aiyer Padmanabhan, learned counsel on record for the respondent.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 13.5.2015 made in ITA.No.521/Mds/2014 on

the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench (for brevity, the Tribunal) for the assessment year 2009-10.

3. The appeal has been admitted on 08.12.2015 on the following substantial questions of law :

> "1. Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the additions made by the AO under Section 115WB(1) under the Fringe Benefit Tax?
>
> 2. Is not the finding of the Tribunal bad as it is against the Rule of consistency especially when the decision for the earlier asst years 2006-07, 2007-08 and 2008-09 had been decided in favour of the department but had deviated from the same in the present asst. year especially when there is no change in the circumstances? And
>
> 3.Whether on the facts and circumstances of the case, the Tribunal was right in holding the provisions of Sec.115WB(2) and 115WB(3) are not applicable especially when the basis of taxation for Fringe Benefit has been clarified in Board Circular No.8 of 2005?"

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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner Of Income Tax(Appeals)
   Large Tax Payer Unit, Chennai-600 101.

3. The Deputy Commisioner of Income Tax,
   Large Tax Payer, Chennai.

TCA.No.1121 of 2015

RJI (CO)
RV (03/09/2020)