IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

T.C.A.No.266 of 2015

Commissioner of Income Tax,
Chennai ... Appellant

vs.

M/s.Gandhimathi Appliances Ltd.
377, Anna Salai,
Teynampet,
Chennai 600 018 ... Respondent

Prayer ::- Appeal filed against the order of the Income Tax Appellate Tribunal, Madras C Bench, dated 28.11.2013 in ITA No.944/Mds/2013 as against the order dated 21/01/2013 of the Commissioner of Income Tax(A)III, Chennai in PAN.No.AAACG2038F for the assessment year 2004-05 and as against the order dated 30/12/2009 of the Assistant Commissioner of Income tax, Chennai.

For appellant : Mr.Karthik Ranganathan

ORDER

(Made by DR.VINEET KOTHARI, J.)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 3 July 2020, by Judges at their respective residence and the counsel, staff of the Court appearing from their respective residences.

2. 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, C Bench, ITA No.944/Mds/2013 by raising the following substantial questions of law:

> "1. Whether in the facts and circumstances of the case, the Tribunal was right in law in deleting the addition made towards market development expenses to the extent of RS.2.20 crores out of the total claim of Rs.5.01 crores as against the

actual debit of Rs.94.56 lakhs in the profit and loss account and directing the Assessing Officer to verify the remaining portion of RS.2.81 crores in the light of the ratio laid down in the case of MIs. Brilliant Tutorials P Ltd.?

2. Whether in the facts and circumstances of the case, the Tribunal was right in law in holding the assessee is eligible for the claim of Rs.2.20 crores as against Rs.94.56 lakhs debited in the profit and loss account without any evidence in support of its claim of Rs.2.20 crores for incurring the expenditure in the year under consideration?

3. Whether in the facts and circumstances of the case, the Tribunal was right in directing the Assessing officer to enquire and verify the details with regard to a sum of Rs.2.81 crores when the assessing himself has admitted that it is eligible for a claim of Rs.2.20 crores only out of the sum of Rs.5.01 crores claimed in its returns?

3. When the matter is taken up for hearing, learned Standing Counsel brought to our notice the Circular issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8 August 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.1,00,00,000/- (Rupees One Crore).

4. 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 withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

5 Registry is directed to send a copy of the judgment to the Respondent / Assessee in the address given in the Appeal.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

M/s.Gandhimathi Appliances Ltd.
377, Anna Salai,
Teynampet,
Chennai 600 018

2.The Commissioner of Income Tax
Nungambakkam Chennai-34

T.C.A.No.266 of 2015

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