IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.2.2020

CORAM

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

Tax Case (Appeal) No.178 of 2013

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

Vs.

M/s.Vishal Surgical Equipment Pvt. Ltd.,
No.22, Wallers Road,
Chennai 600 002. ...Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'D' Bench, Chennai, dated 20.1.2012 made in ITA No.1095/Mds/2011, against the order of the Commissioner of Income Tax(A)-III, Chennai, dated 18/03/2011 made in ITA.No.137/2008-2009/A-III and against the order of the Deputy Commissioner of Income Tax Company Circle III(4), Chennai, dated 10.11.2008 made in GIR/PAN.No.475-V, Assessment year 2001-02.

For Appellant : Ms.V.Pushpa
Senior Standing Counsel

For Respondent : Mr.R.Sivaraman

J U D G M E N T

(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, 'D' Bench, Chennai, dated 20.1.2012 made in ITA No.1095/Mds/2011, 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 holding that the amount received as compensation of Rs.61,39,160/- on account of cancellation of agreement of sole distributorship would not liable to be taxed?

(ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that compensation received in connection with termination of sole distributorship of the product of another company which amounts to contract of agency is a capital receipt and is contrary to the expressed provision contained in Section 28(ii)(c)?

(iii) Is not the finding of the Tribunal bad especially when compensation received by the assessee on account of termination of agency is taxable as a revenue receipt under the head profits and gains of business? "

2. When the matter is taken up for hearing, learned Senior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th 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).

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 withdrawn, keeping open the substantial questions of law for determination in appropriate cases.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

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Income Tax, Chennai.
2. The Income Tax Appellate Tribunal, 'D' Bench, Chennai.
3. The Deputy Commissioner of Income-tax, Company Circle III(4), Chennai.
4. The Commissioner of Income Tax Appeals (III), Chennai.

+1cc to Mr.M.Swaminathan, Advocate Sr.No.10167

AKM/17.03.20 /2P-6C/

T.C.(A) No.178 of 2013