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.543 of 2015

The Commissioner of Income
Tax, Chennai ...Appellant

Vs

M/s.California Software Company Ltd.,
Chennai-100 ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 28.10.2013 made in ITA.No.1246/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2008-09, appeal against the order dated 21.02.2013 made in ITA No.766/11-12 on the file of the Commissioner of Income Tax (Appeals)-IX, Chennai -34 for the Assessment Year 2008-09 and as against the order dated 26.12.2011 made in GIR /PAN AABCC8506B on the file of the Assistant Commissioner of Income Tax, Company Circle-1(3), Chennai-34, for the Assessment year 2008-09, and as against the Order dated 26.12.2008 made in GIR/PAN AA13CC8506B on the file of the Assistant Commissioner of Income Tax, Company Circle -I (3), Chennai-34, for the Assessment year 2005-06.

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

For Respondent: Mr.T.N.Seetharaman

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.T.N. Seetharaman, learned counsel appearing for the respondent - assessee.

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 28.10.2013 made in ITA.No.1246/Mds/2013

on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench (for brevity, the Tribunal) for the assessment year 2008-09.

3. The appeal has been admitted on 28.7.2015 on the following substantial questions of law :

> "1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the expenditure incurred in foreign currency and short realization export sales in foreign currency has to be excluded both from the export turnover and total turnover while computing deduction under Section 10B? and
>
> 2. Whether the Tribunal was right in restricting the disallowance made under Section 14A to Rs.2 lakhs as against Rs.5,71,949/- made by the Assessing Officer by applying the provisions of Rule 8D without assigning any reasons ?"

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(CS III)

//True Copy//

Sub Assistant Registrar

RS

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

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

3.The Assistant Commissioner of Income Tax,
Company Circle -1(3), Chennai-34.

TCA.No.543 of 2015

LN(CO)
RMP(03/09/2020)