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.548 of 2015

The Commissioner of Income Tax, Chennai ...Appellant

Vs

M/s.Cognizant Technology Solutions India Pvt. Ltd., Chennai-86 ...Respondent

Prayer: APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 28.8.2013 made in ITA.No.1094/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2008-09, prefered against the order of the commissioner of Income Tax (Appeals), Chennai, dated 20.02.2012, made in FBTA.No.1/10-11/LJU(A), against the Deputy Commissioner of Income-Tax, Chennai dated 30.11.2010, made in PAN.No.AAACD.3312M, for the assessment year 2008-09.

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

For Respondent:Mr.N.V.Balaji

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.N.V.Balaji, 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 28.8.2013 made in ITA.No.1094/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench (for brevity, the Tribunal) for the assessment year 2008-09.

3. The appeal has been admitted on 22.7.2015 on the following substantial questions of law :

> "1. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the expenditure towards recreation club and sports club is not in the nature of fringe benefit and therefore deleted the additions made especially when the same is covered under Section 115WB(M)(N) ?
>
> 2. Is not the finding of the Tribunal bad, especially when the statute had not differentiated about the expenditure incurred on the clubs maintained by the employer or the club maintained by third persons while dealing with fringe benefit tax ?
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> 3. Whether the finding of the Tribunal was proper in holding that the travel expenditure incurred for business purpose does not attract FBT? and
>
> 4. Whether, on the facts and circumstances of the case, the fringe benefit tax paid on employee stock option plan the liability towards on short payment of advance tax paid no interest is to be charged under Section 115WJ(3) ?"

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

RS

To

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

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

3.The Deputy Commissioner of Income Tax,
Chennai.

4.The Commissioner of Income Tax,
Chennai.

TCA.No.548 of 2015

SSV(CO)
CB(09/10/2020)