In the High Court of Judicature at Madras

Dated : 17.06.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Tax Case Appeal Nos.58 & 59 of 2015

The Commissioner of Income tax,
Chennai. ...Appellant in both the Appeals

Vs

M/s.Sundaram Asset Management Co. Ltd.,
No.46, Whites Road,
Royapettah, Chennai-600 014. ...Respondent in both the Appeals

Prayer: APPEALS Tax Case filed under Section 260A of the Income Tax Act, 1961 against the order dated 22.08.2014 made in I.T.A.Nos.1241 & 1154/Mds/2014 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment years 2009-10 and 2010-11, and against the order of the Commissioner of Income Tax, LTU (Appeals),Anna Nagar Western extension, chennai-600 101, dated 24.01.2014, made in ITA.Nos.73/11-12/LTU (A) and 45/12-13/LTU(A),respectively for the assessment year 2009-10 and 2010-11 and against the order of the Deputy Commissioner of Income tax (Appeal), Chennai, dated 27/12/2011 and 15/02/2013, made in GI No.PA No.AAICSJ respectively for the assessment year 2009-10 and 2010-11.

For Appellant : Mr.T.Ravikumar,
(In both TCAs) Senior Standing Counsel &
Ms.R.Hemalatha,
Senior Standing Counsel

Respondent : Mr.R.Viayaraghavan
(In both TCAs) For M/s.Subbaraya Aiyar,
Padmanabhan & Ramamani

Common Judgment was delivered by T.S.Sivagnanam,J.

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel, appearing for the appellant-Revenue and Mr.R.Vijayaraghavan, learned counsel for the respondent-assessee.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 are directed against the order order dated 22.08.2014 made in I.T.A.Nos.1241 & 1154/Mds/2014 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment years 2009-10 and 2010-11.

3. The appeals were admitted on 10.03.2015 on the following substantial questions of law :

T.C.(A) No.58 of 2015:-

"i) Whether on the facts and circumstances of the case, the Tribunal was right in confirming the order of the CIT(A) who deleted the disallowance made under Section 40(a)(i) of the Income Tax Act holding that the payment made by the assessee to M/s.Fund Quest was not in the nature of royalty and therefore no TDS was to be deducted on the payments made?

ii) Is not the finding of the Tribunal wrong especially when Fund Quest had done elaborate market research on investment Portfolio who had developed the data for investment with less risk and to get maximum return which is a value added product prepared on the basis of experience and the commercial information provided by them is to be considered as royalty as per the provisions of Section 9(1)(vi) of the Income Tax Act and also as per Article 13 of the Indo French Double Taxation Avoidance Agreement?

iii) Whether the Tribunal was right in holding that the repairs of the leasehold premises amounting to Rs.17,20,406/- is to be treated only as revenue expenditure especially when the assessee has incurred the expenditure which are in the nature of capital expenditure as per Explanation 1 to Section 32(1)(ii) of the Income Tax Act?

T.C.(A) No.59 of 2015:-

i) Whether on the facts and circumstances of the case, the Tribunal was right in confirming the order of the CIT(A) who deleted the disallowance made under Section 40(a)(i) of the Income Tax Act holding that the payment made by the assessee to M/s.Fund Quest was not in the nature of royalty and therefore no TDS was to be deducted on the payments made?

ii) Is not the finding of the Tribunal wrong especially when Fund Quest had done elaborate market research on investment Portfolio who had developed the data for investment with less risk and to get maximum return which is a value added product prepared by them is to be considered as royalty as per the provisions of Section 9(1)(vi) of the Income Tax Act and also as per Article 13 of the Indo French Double Taxation Avoidance Agreement?

iii) Whether the Tribunal was right in holding that the repairs of the leasehold premises amounting to Rs.16,81,348/- is to be treated only as revenue expenditure especially when the assessee has incurred the expenditure which are in the nature of capital expenditure as per Explanation 1 to Section 32(1)(ii) of the Income Tax Act?”

4. The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 appeals are 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 appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

To
1.The Income Tax Appellate Tribunal 'D' Bench, Chennai.
2.The Commissioner of Income Tax(Appeal),
II Floor, 1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar western Extension, Chennai-101.
3.The Deputy Commissioner of Income Tax,
Large Tax Payer Unit, Chennai.

TCA.Nos.58 & 59 of 2015

MR(CO)
RMP(07/10/2020)