In the High Court of Judicature at Madras

Dated : 08.7.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.236 of 2018

Principal Commissioner of Income
Tax-4, Chennai-34 ...Appellant

Vs

M/s.Neovia Logistics Services India
Pvt. Ltd., Chennai-113. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 28.10.2016 made in ITA.No.77/Mds/2016 on the file of the Income Tax Appellate Tribunal, Madras 'D' Bench for the assessment year 2009-10.

Against the order dt.11.9.15 made in ITA.No.502/13-14/1, New No.ITA 106/CIT(A)-1/2013-14 on the file of the Commissioner of Income Tax (Appeals)-1, Chennai, for the Assessment Year 2009-10.

Against the order dt.13.5.2013 made in PAN/GIR No.AACCC3949F on the file of the Assistant Commissioner of Income Tax, Company Circle 1(3) Chennai for the Assessment Year 2009-10.

For Appellant :Mr.Karthik Ranganathan
For Respondent :M/s.King & Patridge

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel appearing for the appellant - Revenue and the learned counsel for the respondent.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 28.10.2016 made in ITA. No.77/Mds/2016 on the file of the Income Tax Appellate Tribunal, Madras 'D' Bench for the assessment year 2009-10.

3. The Revenue filed this appeal by raising the following substantial questions of law :

"i. Whether, on the facts and circumstances of the case and in law, the Tribunal was correct and justified in granting deduction under Section 10A when there is clear violation of Section 10A(2)(ii) of the Income Tax Act ?

ii. Whether, on the facts and circumstances of the case and in law, the Tribunal was right and justified in holding that the assessee is entitled to deduction under Section 10A to the Logistics Division formed by splitting up or reconstruction of an already existing business ? And

iii. Whether, on the facts and circumstances of the case and in law, the Tribunal erred in disregarding the fact that the ultimate ownership of Logistics Division vests with M/s.Caterpillar Inc., USA only which reconstructed its business by transferring this Division from CCPL to the assessee and thus, the impugned order of the Tribunal is perverse on facts and in law ?"

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 raised 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 )

//True Copy//

Sub Assistant Registrar

To
1.The Income Tax Appellate Tribunal, Madras 'D' Bench.

2.The Commissioner of Income Tax (Appeals)-1, Chennai.

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

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TCA.No.236 of 2018