IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

T.C.A.No.252 of 2018

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

Vs

M/s.RR Donnelley India Outsources Pvt., Ltd.,
43A, 1st Main Road, R.A.Puram,
Chennai - 600 028.
PAN : AABCH1990A ...Respondent

PRAYER: Tax Case Appeal filed under Section 260A of Income Tax Act, 1961 against the order dated 07.08.2017 in M.P.No.80/Mds/2017 in I.T.A.No.711/Mds/2016 on the file of the Income Tax Appellate Tribunal, 'A' Bench, Chennai,

against the Order dated 01/08/2016 made in ITA No.711/16 on the file of the Income Tax Appellate Tribunal 'A' Bench Chennai for the Assessment Year 2006-07.

against the order dated 28/01/2016 made in ITA No.65/CIT(A)-3/14-15 on the file of the Commissioner of Income Tax (Appellate)-3 Chennai for the Assessment Year 2006-07.

against the Order dated 26/03/2014 made in PAN No.AABCH1990A on the file of the Deputy Commissioner of Income Tax Company Circle-V(4), Chennai for the Assessment Year 2006-07.

For Appellant : Mrs.R.Hemalatha.

For Respondent : Mr.Venkat Narayanan for
Mr.Subbaraya Aiyar.

JUDGMENT

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

This tax case appeal has been filed against the order recalling the earlier Order passed by the Tribunal in I.T.A.No.711/Mds/2016 dated 01.08.2016 by which the Tribunal decided to rehear the matter.

2.The Original appeal had been filed by the assessee aggrieved over the Order of the Commissioner of Income Tax (Appeals) dated 28.01.2016. The assessee is doing the business of providing diversified business process outsourcing (BPO) solutions and related activities and filed its return of income for the assessment year 2006-07 on 30.11.2006 admitting income of Rs.60,37,272/-. Thereafter, the assessee filed revised return on 27.02.2007 declaring income of Rs.80,22,796/- and assessment was completed under Section 143(3) on 09.12.2009 determining the income of the assessee as Rs.2,89,97,211/- after allowing deduction under Section 10B of the Act amounting to Rs.3,47,26,748/-.

3.Thereafter, it was noticed by the learned Assessing Officer that the assessee had not obtained the Board's approval for claiming deduction under Section 10B of the Act and therefore, reopened the assessment under Section 147 of the Act by issuing notice under Section 148 on 26.03.2013. Thereafter, the assessment was completed under Section 143(3) rws 147 of the Act on 26.03.2014 by making additions withdrawing the benefit of Section 10B of the Act. On appeal, the assessment order was confirmed by the Commissioner of Income Tax (Appeals) against which the assessee approached the Income Tax Appellate Tribunal by way of appeal.

4.Noting that no other ground was urged except asking for the prayer to consider the alternate remedy under Section 10A of the Act which says that if the assessee is not eligible for deduction under Section 10B of the Act then, deduction should be considered under Section 10A of the Act alternatively. Hence, the Tribunal remanded the matter to the Assessing Officer to consider as to whether the assesse is eligible for grant of benefit of deduction under Section 10A of the Act.

5.Aggrieved over the same, the appellant has filed a petition to recall the said Order stating that all the grounds have been urged. However, by mistake the Tribunal has noted that no other ground has been raised except the alternate remedy. The said petition was allowed against which the present appeal has been filed.

6.Heard Mrs.R.Hemalatha, learned Counsel for the appellant and Mr.Venkat Narayanan, learned Counsel for the respondent and perused the materials on record.

7.It is seen that the appeal was admitted on 19.06.2018. When the matter is called today, the learned Counsel for the appellant as well as the learned Counsel for the respondent produced the order copy dated 26.07.2019 passed by the Tribunal in the original appeal by which the appeal itself has been disposed of holding that the claim of deduction under Section 10A for the assessment year 2006-07 is already remitted back. Since the order of the Tribunal has been acted upon, this Court confirms the order dated 07.08.2017 in M.P.No.80/Mds/2017 in I.T.A.No.711/Mds/2016. However, the questions of law framed is kept open.

8.With the above observations, this appeal is disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income tax,
Chennai.

3.The Deputy Commissioner of Income Tax Company Circle-V,
Chennai.

4.The Commissioner of Income Tax (Appeals)-3,
Chennai-34.

+1cc to Mr.T.Ravikumar, Advocate Sr.17475
+1cc to Mr.R.Hemalatha, Advocate Sr.17433
+1cc to Mr.Subbaraya Aiyar, Advocate Sr.17602

T.C.A.No.252 of 2018

srg 01/07/2020