IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2020

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THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

T.C.A.Nos.262 & 263 of 2018

The Principal Commissioner of Income Tax
Central 2
No.108, Mahatma Gandhi Road
Chennai - 600 034 ...Appellant/Appellant
(in both appeals)

Versus

M/s.SNJ Distillers Pvt. Ltd.,
New No.99, Canal Banks Road
CIT Nagar, Nandanam
Chennai - 600 035.
PAN: AALCS9312F ...Respondent/Respondent
(in both appeals)

Common Prayer:- Tax Case Appeals filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras ''B'' Bench, dated 31.05.2017 in I.T.A.No.1042/Mds/2016 and ITA.No.1043/Mds/2016, respectively and against the common order of the Commissioner of Income Tax (Appeals - 18), No.46, Mahatma Gandhin Road, Nungambakkam, Chennai - 34, dt.07/01/2016, made in ITA. No. 298 to 301/15-16, for the assessment year 2011-2012, 2012-2013 respectively and against the order of the Deputy Commissioner of Income Tax Central Circle - 2(1), Chennai - 34, dt.30/03/2015, made in PAN-AALCS9312F, for the assessment year 2011-12 and 2012-2013 respectively.

For Appellant (in both appeals)	:	Mr.T.R.Senthil Kumar Senior Standing Counsel
For Respondent (in both appeals)for	:	Mr.R.Vijayaraghavan Mr.Subbaraya Aiyar Padmanabhan

COMMON JUDGMENT

[Order of the Court was made by T.S.SIVAGNANAM, J.]

These appeals filed by the Revenue, under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) are directed against the orders, dated 31.05.2017 passed by the Income Tax Appellate Tribunal, Madras 'B' Bench, ('the Tribunal' for brevity), in I.T.A.No.1042/Mds/2016 and ITA.No.1043/Mds/2016, for the assessment year 2011-12 & 2012-13.

2. These appeals are entertained on the following substantial question of Law:

> Whether on the facts and circumstance of the case the Appellate Tribunal was right in holding that the Revenue appeal is not maintainable, since the tax effect is less than Rs.10,00,000/-, without appreciating clause 5 of the CBDT Circular No.21/2015, which provides in case of a composite order Revenue appeal is maintainable even though the tax effect is below monetary limit?

3. Mr.T.R.Senthil Kumar, learned Senior Standing Counsel appearing for the appellant-Revenue, submitted that the Tribunal had fell in error in dismissing the appeals filed by the Revenue before it, on the ground of low tax effect, by referring to the circular of CBDT No.21/2015, dated 10.12.2015.

4. It is the submission of Mr.R.Vijayaraghavan, the learned counsel appearing for the respondent-assessee that these appeals itself cannot be pursued by the Revenue on account of low tax effect as fixed by CBDT, vide Circular No.17/2019 dated 08.8.2019.

5. Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel appearing for the Revenue and Mr.R.Vijayaraghavan, learned counsel appearing for the respondent-assessee.

6. We observe that the Tribunal has committed error in its finding in terms of paragraph No.5 of the Circular No.21/2015, as per which, if the disputed issue arises in more than one assessment years, appeals can be filed by the Revenue in such assessment year or years, regardless of the monetary units. Therefore, we hold that the finding rendered by the Tribunal in paragraph No.6 of its common order dated 31.05.2017 in ITA.Nos,1042,1042 &1044/Mds/2016, is incorrect. Nevertheless as on date, the Revenue cannot pursue the present appeals because of the monetary limit fixed in the latest CBDT's Circular

No.17/2019 dated 08.8.2019.

7. In the light of the above, the tax case appeals are dismissed on account of the low tax effect. The substantial question of law framed is 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To :

1.The Principal Commissioner of Income Tax
Central 2
No.108, Mahatma Gandhi Road
Chennai - 600 034

2.The Income Tax Appellate Tribunal
Chennai, 'B' Bench.

3.The Commissioner of Income Tax
(Appeals-18) No.46, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 34.

4.The Deputy Commisioner of Income Tax,
Central Circle - 2(1),
Chennai - 34.

+1cc to Mr.Subbaraya Aiyar, Advocate, SR.No.29575
dated 10/09/2020

T.C.A.Nos.262 & 263 of 2018

MR(CO)
RN(23/10/2020)