IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

T.C.A.No.20 of 2014

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

vs.

M/s.Liberty Agri Products P Ltd,
No.3/284 Muttukadu Road,
Neelangarai,
Chennai 41. ...Respondent/Appellant

Prayer ::- Appeal filed against the order of the Income Tax Appellate Tribunal, Madras C Bench, Chennai dated 24.08.2011 in ITA No.1610/Mds/2010 for the Assessment Year 2006-2007,

against the order of the Income Tax Officer, Company Ward 11 (1) Chennai -34 dated 03/09/2010 GIR No./PAN AAACL8485F,

against the proceedings of the Ministry of Finance Income Tax Department Dispute Resolution Panel (DRP) Chennai dated 31/08/2010 in F.No.DRP Chennai/Secot/001/2010-11,

against the order of the Transfer Pricing Officer II Chennai-34 dated 30.10.2009 and made in F.No.L-201/TPO-II/A-Y 2006-2007.

For appellant : Mr.Karthik Ranganathan

ORDER

(Made by DR.VINEET KOTHARI, J.)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 3 July 2020, by Judges at their respective residence and the counsel, staff of the Court appearing from their respective residences.

2. This Tax Case Appeal has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, "C" Bench, by raising the following substantial questions of law:

> (i) "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the additional adjustment of Rs.2,61,32,176/- made by the TPO was not sustainable in law?"
>
> (ii) Is not the finding of the Tribunal is perverse when the DRP had given a categorical finding that there was no documentary evidence in the form of written arguments or any other 3rd party independent evidence to conclude that the said contract of purchase was entered and concluded on 06.03.20057 ?
>
> (iii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the addition of RS.2.61 crores by adopting comparison of uncontrolled price method?"

3. When the matter is taken up for hearing, learned Counsel for the appellant brought to our notice the Circular issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8 August 2019, wherein, it is stipulated that appeal shall not be filed/ pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

4. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal,
Rajaji Bhavan Besant Nagar,
Madras C Bench, Chennai-90.

2.The Commissioner of Income Tax,
Chennai.

3.The Income Tax Officer,
Company Ward 11(1),
Chennai-34.

4.The Ministry of Finance,
Income Tax Department Dispute Resolution Panel,
Chennai-34.

5.The Transfer Pricing Officer-II,
Nungambakkam, Chennai-34.

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srg 04/11/2020