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 No.560 of 2014

Commissioner of Income Tax,
Coimbatore. ...Appellant/Appellant

Vs

M/s.Flow Link Systems P Ltd.,
189/1A-Ac Uthupalayam,
Avinashi Road, Arasur,
Coimbatore-641 047. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 09.01.2014 made in ITA No.1471/Mds/2009 on the file of the Income-tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2004-05 against the order dated 05.06.2009 made in I.T.A. No. 61.2007-2008 I.T.A. TR. No. 414/2006-2007 on the file of the Commissioner of Income Tax (Appeals) XI, Chennai 34 for the assessment year 2004-2005.

against the order dated 28.12.2006 made in PAN/GIR No. AACF3239K on the file of the Joint Commissioner of Income Tax, Tirupur Range, Tirupur.

For Appellant:Mr.T.R.Senthil Kumar,
Senior Standing Counsel
assisted by Ms.K.G.Usha Rani,
Junior Standing Counsel

Respondent :Mr.R.Vijayaraghavan,
For M/s.Subbaraya Aiyar,
Padmanabhan & Ramamani

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

We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usha Rani, learned Junior Standing Counsel appearing for the appellant-Revenue and Mr.R.Vijayaraghavan, learned counsel for the respondent-assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 09.01.2014 made in I.T.A. No.1471/Mds/2009 on the file of the Income-tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2004-05.

3. The appeal was admitted on 18.08.2014 on the following substantial questions of law :

> "1. Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in holding the computation of the ALP of the assessee shall be reworked, by treating the difference in profit margin as nil and accordingly any upward revision cannot be sustained for making addition towards increase in income based on the determination of the ALP?
>
> 2. Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in holding that the transactions of the assessee with its AE are at arms length?
>
> 3. Whether based on material available before it, the Tribunal could have arrived at conclusion that the transactions of the assessee with its AE are at arms length?"

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 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 appeal to be heard and decided on merits.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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

2.The Commissioner of Income Tax (Appeals)XI
Chennai 34.

3.The Joint Commissioner of Income Tax,
Tirupur Range
Tirupur

TCA.No.560 of 2014

LN(CO)
SP(04/08/2020)