IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 04.02.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.Nos. 682 & 683 of 2009

Commissioner of Income Tax -1,
Chennai. ... Appellant in both TCAs

v.

M/s. Areva T& D India Ltd.,
(formerly known as Alstom Ltd)
No.314/315, Anna Salai,
Chennai - 600 018. ... Respondent in both TCAs

T.C.A. No. 682/2009 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 03.11.2008 in ITA.No.290/Mds/2006 for the Assessment Year 2002-03.

T.C.A. No. 683/2009 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 03.11.2008 in ITA.No.2247/Mds/2005 for the Assessment Year 2002-03, against the proceedings of the Commissioner of Income Tax (Appeals)III, 121, Mahatma Gandhi Road, Chennai 600 034 and made in ITA.No.93/2005-06/A.III, dated 03.10.2005, against the proceedings of the Assistant Commissioner of Income Tax, Company Circle I(1), Chennai-34 made in PA/G.I.R.No.AXI-061 Dated 31.03.2005 for the Assessment Year 2002-03.

For Appellant : Ms. R.Hemalatha,
(in both TCA) Standing Counsel

For Respondent : Mr. M.P. Senthil Kumar
(in both TCA)

COMMON JUDGMENT

(Judgment was delivered by M.DURAISWAMY, J.)

We have heard Ms. R.Hemalatha, , learned Standing Counsel for the appellant/Revenue and Mr. M.P. Senthil Kumar, learned counsel for the respondent.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) are directed against the order dated 03.11.2008 made in ITA.No.290/Mds/2006 & ITA.No.2247/ Mds/2005 on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench (for brevity, the Tribunal) for the Assessment Year 2002-03.

3. The appeals were admitted on 10.08.2009 on the following substantial question of law:

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the property in Lucknow which was exchanged for another property in respect of which the assessee had forgone the tenancy rights, was acquired for a valuable consideration and allowing depreciation under section 32 "
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> (ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that interest u/s 234D cannot be charged in respect of the refund granted prior to the insertion of the Section 234 D when the regular assessment was completed only subsequent to the insertion of Section 234D? And
>
> (iii) Whether on the facts and circumstances of the case, no interest can be charged even for the period subsequent to the introduction of section 234D merely on the ground that the refund was granted prior to its introduction?"

4. The learned Standing Counsel appearing for the appellant submits that the above appeals are not pursued by the Revenue on account of the Low Tax Effect in terms of Circular No.17/2019 dated 08.08.2019 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 respective cases is less than the threshold limit.

5. In the light of the said submissions, the above Tax Case Appeals are dismissed on account of the Low Tax Effect. The substantial questions of law framed is left open. In the event the tax effect in the respective cases 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 appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Rj
To

1.The Income Tax Appellate Tribunal,
Madras, "A" Bench.

2.The Commissioner of Income Tax-I,
Chennai.

3.The Commissioner of Income Tax (Appeals)-III,
121, Mahatma Gandhi Road,
Chennai-600 034.

4.The Assistant Commissioner of Income Tax,
Company Circle I(1),
Chennai-34.

5.The Record Keeper,
VR Section, High Court, Madras.

+1cc to Mr.M.P.Senthilkumar, Advocate Sr.6367
+2cc to M/s.T.Ravikumar, Advocate Sr.6013, 5063

T.C.A.Nos. 682 & 683 of 2009

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