IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2021

CORAM

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

T.C.A.Nos.495 and 496 of 2010

Commissioner of Income Tax,
Chennai. ... Appellant/Respondent in both appeals

Vs.

M/s.Orchid Chemicals
& Pharmaceuticals Ltd.,
Orchid Towers,
313, Valluvar Kottam Rd.,
Nungambakkam,
Chennai - 600 034. ... Respondent/Appellant in both appeals

Tax Case Appeals in T.C.A.Nos.495 and 496 of 2010 preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "D" Bench, dated 09.10.2009 in I.T.A.Nos.929/Mds/2009 and 930/Mds/2009, respectively for the Assessment Years 2001-02 and 2004-05 respectively and against the order of the Commissioner of Income Tax(Appeals)-V, Chennai-600 034, dated 16.07.08 in ITA.Nos.620&621/2006-07 for the Assessment Years 2001-02 & 2004-05 and the Deputy Commissioner of Income Tax, Company Circle V (1), Chennai, dated 22.12.2006 and 26.12.2006 in PAN/GIR No.AAACC0402B/51005-O and AAACO0402BP51005-O for assessment year 2004-05 and 2001-02

For Appellant : Mrs.R.Hemalatha Standing Counsel in both appeals

For Respondent : Mr.R.Sivaraman in both appeals

COMMON JUDGMENT

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

We have heard Mrs.R.Hemalatha, learned Standing Counsel for the appellant/Revenue and Mr.R.Sivaraman, learned counsel for the respondent/assessee.

2.The above appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act), are directed against the order dated 09.10.2009 made in I.T.A.Nos.929/Mds/2009 and 930/Mds/2009, on the file of the Income Tax Appellate Tribunal, Madras, "D" Bench (for brevity, the Tribunal) for the Assessment Years 2001-02 and 2004-05 respectively.

3.The above appeals were admitted on 28.06.2010 on the following substantial question of law:

> "Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that sale proceeds of scrap and spent solution has to be excluded from the total turnover?"

4.The learned Standing Counsel 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 these cases is less than the threshold limit.

5.In the light of the said submissions, the above Tax Case Appeals are dismissed as withdrawn on account of the Low Tax Effect.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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax(Appeals)-V,
Chennai-600 034.

3.The Deputy Commissioner of Income Tax,
Company Circle V(1), Chennai.

4.The Commissioner of Income Tax,
Chennai.

+1cc to Mr.T.Ravi Kumar, Advocate, S.R.No.18579

NR(CO)
KM(30/04/2021)