IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

CORAM :

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

T.C.A.No.152 of 2011

Commissioner of Income Tax – I,
Chennai. ...Appellant

Vs.

M/s.Foster Wheeler India P. Ltd.
No.184-187, 9th Floor, Temple Steps
Anna Salai, Little Mount,
Chennai – 600 015. ...Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "B" Bench, dated 16.11.2010 in I.T.A.No.1126/Mds/2010, Assessment Year 2002-03 as against the order of Commissioner of Income Tax (Appeals)-III, Chennai-34 dated 07.04.2010 made in ITA.No.423/05-06/A-III and against the order of the Deputy Commissioner of Income Tax company Circle II(1), Chennai–34 dated 22.09.2005 in G.I.No.AAACF3204C for the Assessment year 2002-2003.

For Appellant : Mr.T.Ravi Kumar
Senior Standing Counsel

For Respondent : Ms.Sri Niranjani Srinivasan
for M/s.G.Baskar

J U D G M E N T
(Judgment was delivered by T.S. SIVAGNANAM, J.)

We have heard Mr.T.Ravi Kumar, learned Senior Standing Counsel for the appellant/Revenue and Ms.Sri Niranjani Srinivasan, learned counsel appearing for the respondent/ assessee.

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 ("the Act" for brevity) is directed against the order dated 16.11.2010 made in I.T.A.No.1126/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai, "B" Bench ("the Tribunal" for brevity) for the Assessment Year 2002-03.

3.The appeal was admitted on 05.04.2011 on the following substantial question of law:

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that no penalty under Section 271AA could be levied merely because the Transfer Pricing Officer had not made any adjustments in respect of international transactions?"

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 08.08.2019 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 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 question of law framed is left open. In the event the tax effect in this case 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. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Income Tax Appellate Tribunal, Chennai, "B" Bench

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

3. The Commissioner of Income Tax,(Appeal)-III, Chennai – 34.

4. The Deputy Commissioner of Income Tax, Company Circle II (1), Chennai – 34

+1cc to Mr.T.Ravikumar, Sr.Standing Counsel, S.R.No.41564
+1cc to M/s.G.Baskar, Advocate, S.R.No.41203

T.C.A.No.152 of 2011

AJS(CO)
RGA(16/09/2021)