IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.02.2021

CORAM:

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

T.C.A.No.446 of 2012

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

Vs.

M/s.Yubo Investment Co. Pvt. Ltd.,
Flat D.ABM Manor, 3rd Floor,
No.66, Old No.12,
Arch Bishop Mathias Avenue,
Chennai - 600 028. ... Respondent/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 20.07.2012 in I.TA.No.807/Mds/2012 Assessment Year 2005-06 preferred against the order of the Commissioner dated 30/01/2012 in ITA.No.489/07-08/A-III filed against the order of the Assistant Commissioner of Income Tax Company Circle III(3) Chennai-34 dated 25.12.2007 for the Assessment year 2005-2006.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel

For Respondent : Mr.R.Sivaraman

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

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

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) are directed against the order dated 20.07.2012 made in I.TA.No.807/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai, "B" Bench (for brevity, the Tribunal) for the Assessment Year 2005-06.

3.The appeal was admitted on 21.12.2012 on the following substantial questions of law:

> "1)Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in allowing the claim of the assessee holding that the advance written off as irrevocable was allowable as business loss under Section 28 of the Income Tax Act?
>
> 2)Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the disallowance made on account of trade advance written off is to be allowed even though the assessee has not taken the same into account while computing the income either in the relevant previous year or any of the earlier years and had also not satisfied the conditions imposed under Section 36(ii)?"

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 these cases are less than the threshold limit.

5.In the light of the said submissions, the above Tax Case Appeal is dismissed as withdrawn on account of the Low Tax Effect. The substantial questions of law framed are 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/-
Asst.Registrar (CS VIII)

/true copy/
Sub Asst. Registrar

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

2.The Commissioner of Income Tax
Appeals-III Chennai-34

3.The Assistant Commissioner of Income Tax
Company circle III(3)
Chennai-34

+1 cc to M/s.M.Swaminathan Advocate sr10243

T.C.A.No.446 of 2012

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