IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2021

CORAM

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

T.C.A.No.456 of 2012

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

Vs.

M/s.Greenland Exports Private Ltd.,
14, Sir Theyagaraya Road,
T.Nagar, Chennai - 600 017. ... 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 19.07.2012 in I.TA.No.2107/Mds/2011, Assessment Year 2006-07, filed against the Assesment Order of the Assistant Commissioner of Income Tax, Company Circle II(2), Chennai in PAN No.AAACG3488P dated 28.10.2011 for the assessment year 2006-2007.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

For Respondent : Mr.R.Vijayaragavan
for M/s.Subbaraya Aiyar

JUDGMENT

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

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel for the appellant/Revenue and Mr.R.Vijayaragavan, learned counsel appearing for the respondent/assessee.

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 19.07.2012 made in I.TA.No.2107/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai, "B" Bench (for brevity, the Tribunal) for the Assessment Year 2006-07.

3.The appeal was admitted on 02.01.2013 on the following substantial questions of law:

> "1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the reopening of the assessment under Section 147 suffered from the fundamental law of going to the roots and vitiating the reassessment process?
>
> 2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in restricting the quantum of upward revision by adopting ALP at Rs.10.50 lakhs as against Rs.1.25 crores determined by the AO?
>
> 3.Is not the finding of the Tribunal perverse in holding Internal TNMM(Transactional Net Margin Method) could be taken for justifying the ALP determination wherein the uncontrolled entities maintained by the assessee are associate enterprise of the group companies which is hit by Section 92A(2)(j) of the I.T.Act?
>
> 4.Whether the Tribunal was right in not considering the fact that while computing ALP transaction with related party had been taken into account which is against the provisions of the statute?"

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 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/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,
Chennai.

3.The Assistant Commissioner of Income Tax,
Company Circle II(2), Chennai.

4.The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No.18130

T.C.A.No.456 of 2012

GMI(CO)
KM(27/04/2021)