IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2021

CORAM:

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

T.C.A.Nos.1222 & 1223 of 2015

Commissioner of Income Tax,
No.121, Nungambakkam High Road,
Chennai - 600 034. ... Appellant in both TCAs

v.

M/s. Jouve India Pvt. Ltd.,
[Formerly known as Tex Tech
International Pvt. Ltd.]
Ground Floor, STPIU Building,
5, Rajiv Gandhi Salai,
Taramani, Chennai - 600 113.
PAN : AAC CT 1855 H ... Respondent in both TCAs

Appeals preferred under Section 260A of the Income Tax Act, 1961, against the common order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 08.04.2015 in ITA.Nos.2602/Mds/2014 & 2645/Mds/2014 for the Assessment Year 2009-2010, appeal as against the order of Commissioner of Income Tax Appeals-III, 121, Mahatma Gandhi Road, Chennai-600 034 dated 07/07/2014 and made in ITA.NO.1440/13-14 for the Assessment year 2009-2010 and against the order of the Assistant Commissioner of Income Tax, Company Circle-III(2), Chennai-600 034 dated 30/12/2011 and made in PAN.NO.AACCT1855H for the Assessment year 2009-2010.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

For Respondent : Mr. R.Venkat Narayanan
for M/s. Subbaraya Aiyar & Padmanabhan

COMMON 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.Venkat Narayanan, 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 08.04.2015 made in ITA.Nos.2602/Mds/2014 & 2645/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai, ''A'' Bench (for brevity, the Tribunal) for the Assessment Year 2009-2010.

3. T.C.A.No.1222 of 2015 was admitted on the following substantial questions of law:

> "(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the deduction under section 10A has to be allowed without setting off of brought forward unabsorbed losses and depreciation as against the CBDT Circular in F.No.279/Misc./M.116/2012-ITJ dated 16.7.2013?
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> (ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in directing the assessing officer to include the addition or disallowance of various payments and added back as indeed business income, when the said disallowance was not forming part of the current year's expenditure of the assessee?"

4. T.C.A.No.1223 of 2015 was admitted on the following substantial questions of law:

> "(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that there was no technical knowledge or skill or experience was made available to the assessee in the Marketing Agreement and Overseas Service Agreement and was not liable to deduction tax at source under section 40(a)(i) read with section 195 of the Act?
>
> (ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in excluding the travel expenditure incurred in foreign currency fro the total turnover when clause (iv) to Explanation 2 to section 10a specifically excludes the same only from the export turnover?"

5. 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.

6. 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

//True Copy//

Sub Assistant Registrar

Rj

To

1.The Income Tax Appellate Tribunal,
Chennai, ''A'' Bench

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

3.The Assistant Commissioner of Income Tax,
Company Circle-III(2),
Chennai-600 034.

+1cc to Mr.Subbaraya Aiyar, Advocate Sr.No.20525

T.C.A.Nos.1222 & 1223 of 2015

KV(CO)
NR 17/04/2021