IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2021

CORAM

THE HON'BLE MR.JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R.HEMALATHA

T.C.A.No.510 of 2015

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

Vs.

M/s.A.B.Mauri India Pvt. Ltd.,
No.2/15, Ganapathy Colony,
Teynampet, Chennai - 600 018. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, “A” Bench, dated 11.02.2015 in I.TA.No.769/Mds/2012, Assessment Year 2002-03 against the order of the Commissioner of Income Tax (Appeals) - III, Chennai - 600 034 dated 25/01/2012 in PAN.No.AABCB0012B for the Assessment year 2002-2003.

Appeal against the Assessment order passed by the Assistant Commissioner of Income Tax Company Circle 1(1) Chennai dated 14/09/2007 in PAN No.AABCB3856B/AX6-628 for the Assessment Year 2002-2003.

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

For Respondent : Mr.S.P.Chidambaram

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

We have heard Mr.T.Ravi Kumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.S.P.Chidambaram, 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) is directed against the order dated 11.02.2015 made in I.TA.No.769/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench (for brevity, the Tribunal) for the Assessment Year 2002-03.

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

> "1.Whether on the facts and circumstances of the case, the Tribunal was right in allowing depreciation in non compete fees? and
>
> 2.Is not the finding of the Tribunal bad by allowing depreciation on non compete fees especially when right to trade freely and to compete in the market is not an asset and right to personal service under a contract of service is unassignable, which cannot be bought or sold and has no actual and marketable value and therefore, cannot be termed as an asset?"

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(CCC)

//True Copy//

Sub Assistant Registrar

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To

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

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

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

+1cc to Mr.T.Ravi Kumar, Advocate, S.R.No.34777

T.C.A.No.510 of 2015

KV(CO)
RLP(09/08/2021)