IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 20.01.2021

CORAM:

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

T.C.A.Nos.574 & 575 of 2015 and
M.P. No. 1 of 2015 (2 MPs)

The Commissioner of Income Tax,
Chennai. ... Appellant in both TCAs

v.

M/s. Good Leather Shoes (P) Ltd.,
47, Thiruvengadam Street,
Periamet, Chennai - 600 003. ... Respondent in both TCAs

T.C.A. No. 574/2015 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, “A” Bench, dated 28.03.2014 in ITA.No.188/Mds/2014 and ITA.No.288/Mds/2014 for the Assessment Year 2009-10 and 2011-12 as against the order dated 17.09.2013 passed by the Commissioner of Income Tax(Appeal-II) Chennai in ITANos. 498 and 1567 /2013-2014 and as against the order dated by the Deputy Commissioner of Income tax, Chennai in PAN /GIR Number AAACG8998G dated 06.12.2012 for the Assessment Year 2010-11 and Assistant Commissioner of Income tax,Company Circle II(2) Room No. 512,V floor,New Block,Chennai-34 in PAN /GIR No. AAACG8998G dated 23.12.2011 for the Assessment Year 2009-10.

For Appellant in both Petitioners	:	Mr.S. Rajesh for Mr.Karthik Ranganathan Standing Counsel
For Respondent both Petitioners	:	Mr. G.Baskar

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COMMON JUDGMENT

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

We have heard Mr.S. Rajesh, learned Standing Counsel for the appellant/Revenue and Mr. G.Baskar, 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 28.03.2014 made respectively in ITA.Nos. 188/Mds/2014 & 288/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai, ''A'' Bench (for brevity, the Tribunal) for the Assessment Years 2009-10 and 2010-11.

3. The appeals were admitted on 24.07.2015 on the following substantial questions of law:

> "(i) Whether on the facts and in the circumstances of the case, the Income Tax Tribunal was right in deleting the disallowance of commission payment made to non-resident under Section 40(a)(i) read with section 195 of the Income Tax Act?
>
> (ii) Is not the findings of the Tribunal bad especially when the payment made to non-resident abroad is the commissions for the services rendered under section 9(1)(vii) as it had deemed to have been arisen in India?
>
> (iii) Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in not considering the explanation inserted by Finance Act, 2010 with retrospective effect from 01.06.1976 wherein the commission payments are taxable in India irrespective of the PE of the non- resident and also the place in which the services were rendered?"

4. 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.

5. 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

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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. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

Rj

To

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

2. The Deputy Commissioner Of Income Tax Company
   Circle-II(20,room No. 512,v floor,New Block
   Aayakar Bhavan,121 Uttamar Gandhi Salai,Chennai-34.

3. The Commissioner of Income Tax,Chennai.

4. The Assistant Commissioner of Income Company
   Circle-II(20, Chennai-34.

+1cc to Mr. G.Baskar,Advocate 2893.

T.C.A.Nos.574 & 575 of 2015 and
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SVI(CO)
NRA(03/03/2021).

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