IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

T.C.A.No.496 of 2013

Commissioner of Income Tax III,
Chennai. ..Appellant

-vs-

M/s.Metropolitan Transport
Corporation (Chennai) Ltd.,
PAN: AAACP1935C,
No.1, Pallavan House,
Annasalai, Chennai-600 002. .. Respondent

Appeal under Section 260A of the Income Tax Act, 1961 against the order dated 25.09.2012 made in I.T.A.No.625/Mds/2012 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2004-05.This Appeal filed against order of the Income Tax Appeals Tribunal Madras “c” Bench in ITA No.625/Mds/2012 dated 25.09.2012 in assessment year 2004-2005 against the Commissiner of Income Tax (Appeals)-VI, Chennai – 600 034 in ITA No.199/10-11 dated 20.12.2011 PAN No.AAACP1935C for the assessment year 2004-2005 against the Income Tax Officer (OSD) company Circle (IV)(2) chennai-34 in PAN No.ME-12/AAACP1935C for assessment year 2004-2005.

For Appellant : Mr.Karthik Ranganathan

For Respondent : Mr.R.Vijayaraghavan

JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal, by the appellant/Revenue, filed under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) is directed against the order dated 25.09.2012, made in I.T.A.No.625/Mds/2012 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2004-05.

2.The appeal was admitted on 19.08.2013, on the following substantial question of law:-

“Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the undistributed amount of Rs.7.29 crores, received by the assessee in the year 1999 towards the terminal benefits of the employees, cannot be treated as trading receipt during the year in appeal?”

3.Heard Mr.Karthik Ranganathan, learned Senior Standing Counsel for the appellant/Revenue and Mr.R.Vijayaraghavan, learned counsel for the respondent/assessee.

4.The respondent/assessee is the Metropolitan Transport Corporation (Chennai) Ltd., a wholly owned Tamil Nadu State Government undertaking. The assessment for the year under consideration 2004-05 was completed on 25.10.2007 under Section 143(3) read with Section 147 of the Act. The Assessing Officer pointed out that the Government of Tamil Nadu had provided a sum of Rs.20.50 Crores for payment of interest on terminal benefits to be kept under a separate account and not to be utilized for any other purpose, but the assessee stated to have used the undisbursed balance of Rs.7.29 Crores for working capital requirements. This the Assessing Officer held it to be a trading receipt and added it back to the return of income. The correctness of this was challenged by the assessee before the Commissioner of Income Tax (Appeals)-VI, Chennai (for brevity, “the CIT(A)”). The CIT(A), by order dated 20.12.2011, affirmed the view taken by the Assessing Officer, however did not record any independent findings. Aggrieved by the same, the assessee was before the Tribunal. The Tribunal by the impugned order, has allowed the appeal. The Tribunal took note of the factual position, which was placed before it to establish that the remaining amount of Rs.7.29 Crores, which was left in the hands of the assessee, was used to be adjusted against the students concession subsidy due to the assessee from the Government of Tamil Nadu in the subsequent years. The assessee was able to establish the said fact by producing a Government Order in G.O.Ms.No.44 dated 24.03.2009. Taking note of the said Government Order, the appeal filed by the assessee was allowed by the Tribunal.

5.It is no doubt true that the Government Order dated 24.03.2009 was not placed before the CIT(A), when it heard the appeal and passed the order dated 20.12.2011, but there can be no denying the fact that such an order was passed. The genuinity of the stand taken by the assessee was never in doubt before the Tribunal.

6.Thus, we are of the view that considering the facts and circumstances of the case as placed before the Tribunal, the assessee was granted relief and we find no question of law, much less substantial question of law arising for consideration in this appeal.

Accordingly, the tax case appeal stands dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

abr

To

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

2. The Commissioner of Income Tax (Appeals)-VI
   No.121, Mahatma Gandhi Road,
   Chennai - 600 034.

3. The Income Tax Officer (OSD)
   Company Circle IV(2)
   Chennai - 600 034.

4. The Metropolitan Transport,
   Corporation (Chennai)
   No.1, Pallavan Salai,
   Annasalai, Chennai - 600 002.

Copy To

The Section Officer,
VR Section
High Court,
Madras - 104.

+1cc to M/s.Subbaraya Iyer, Advocate, S.R.No.37922

T.C.A.No.496 of 2013

VSNII(CO)
CT(25/08/2021)