IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

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

T.C.A.No.508 of 2013

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

Vs.

M/s.Bharat Overseas Bank Ltd.,
(now merged with Indian Overseas Bank Ltd.)
Central Office, Accounts Department,
763, Anna Salai,
Chennai – 600 002. ... 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 20.02.2013 in I.TA.No.1541/Mds/2010, Assessment Year 2007-08 filed against the order passed by the Commissioner of Income Tax (Appeals)(A) III, Chennai dated 28.06.2010 in FBT.No.23/09-10/A-III, preferred against the order of Assessment Officer/Assistant Commissioner of Income Tax, Company Circle – I (2) I/C, Chennai – 34 dated 31.12.2009 in PAN.No.AAA CB1374M.

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

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

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.R.Venkata Narayanan for M/s.Subbaraya Aiyar Padmanabhan, 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 20.02.2013 made in I.TA.No.1541/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai, "B" Bench (for brevity, the Tribunal) for the Assessment Year 2007-08.

3.The appeal was admitted on 19.08.2013 on the following substantial questions of law:

> "1.Whether on the facts and circumstances of the case, the Tribunal was right in holding that while completing assessment under Section 115WE (3) the addition of Rs.2,09,81,000/- towards provision for Bharat Overseas Bank Employees Pension Fund Trust is not to be charged?
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> 2.Whether any debit to profit and loss account even without payment being made needs to be included as eligible for the purpose of fringe benefit?"

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

//True Copy//

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 Commissioner of Income Tax,
(Appeals)- A III,
Chennai.

4.The Assessment Officer/
Assistant Commissioner of
Income Tax Company Circle - 1 (2)I/C,
Chennai - 34.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No. 26255

T.C.A.No.508 of 2013

GMI(CO)
GN(08/07/2021)