IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2021

CORAM

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

T.C.A.No.866 of 2013

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

Vs.

M/s.Prakash Impex
No.58E, Sidco Industrial Estate,
Ambattur,
Chennai – 600 098. ... 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 30.03.2012 in I.TA.No.8/Mds/2011, Assessment Year 2008-09.

Against the order of the Commissioner of Income Tax (Appeals) IV Chennai-34 dated 17-11-2011 in ITA No. 110/10-11/A-IV for the Assessment year 2008-09 against the Assessment order dated. 23-12-2010 by the Assistant Commissioner of Income Tax circle-XI Chennai-6 for the Assesment year 2008-09.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

For Respondent : Mr.R.Sivaraman

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.Sivaraman, 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 30.03.2012 made in I.TA.No.8/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench (for brevity, the Tribunal) for the Assessment Year 2008-09.

3.The appeal was admitted on 02.04.2014 on the following substantial questions of law:

"1.Whether on the facts and circumstances of the case, the Tribunal was right in deleting the disallowance of commission amounting to Rs.1,45,83,443/- paid to non-resident agent?

2.Whether on the facts and circumstances of the case, the Tribunal was right in holding that the provisions of Section 195 are not applicable to the facts of the present case?

3.Whether on the facts and circumstances of the case, the Tribunal was right in holding that provision of Section 40(a)(i) are not applicable?"

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(CS VIII)

//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,
Chennai.

3.The Assistant Commissioner of Income Tax,
Business Circle XI, 611 Annasalai, Chennai-600 006

T.C.A.No.866 of 2013

SS(CO)
A.SK(13.07.2021)