IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2021

CORAM

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

T.C.A.No.983 of 2013

Commissioner of Income Tax,
Central Circle
Chennai - 600 034. ... Appellant

Vs.

M/s.Jakhau Salt Company Private Limited,
TVH Phase II, 5th Floor,
Bellicia Towers, MRC Nagar,
Chennai - 600 028. ... 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 19.06.2013 in I.TA.No.2285/Mds/2012, Assessment Year 2007-08 as against the order of Commissioner of Income Tax (Appeals) I, Chennai 34 dated 04.09.2012 in I.T.A. No. 88/11-12(214/09-10) and as against the order of Assistant Commissioner of Income Tax, Central Circle II(3) Chennai dated 18.11.2009 in PAN No. AAACW0867G for the Assessment year 2007-2008.

For Appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel
and Mrs.K.G.Usha Rani
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.R.Senthil Kumar, learned Senior Standing Counsel and Mrs.K.G.Usha Rani, learned Standing Counsel for the appellant/Revenue and Mr.R.Venkata Narayanan for M/s.Subbaraya Aiyar, 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 19.06.2013 made in I.TA.No.2285/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench (for brevity, the Tribunal) for the Assessment Year 2007-08.

3.The appeal was admitted on 10.02.2014 on the following substantial questions of law:

> "1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that loans and advances taken by a concern cannot be subjected to addition as deemed dividend u/s.2 (22)(e)?
>
> 2.Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the additions made by the assessing officer without setting aside the matter with respect to additions made u/s.2(22) (e) to examine whether the same are real business transactions or loans, rather than agreeing with the order of the Commissioner of Income Tax (Appeals) summarily accepting the stand of the assessee?
>
> 3.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in limiting the taxation of deemed dividend only in the hand of the beneficial and registered share holders is in accordance with law which makes the second limb of the said section redundant?"

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.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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

2.The Commissioner of Income Tax,
Central Circle
Chennai – 600 034.

3.The Commissioner of Income Tax
(Appeals-I) Chennai 34.

4.The Assistant Commissioner of Income Tax
Central Circle II(3) Chennai

+1 CC to Mr.T.R. Senthil Kumar, Advocate sr 21818

T.C.A.No.983 of 2013

JPL(CO)
SP(09/07/2021)