IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2021

CORAM

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

T.C.A.No.406 of 2016

Principal Commissioner of Income Tax 2,
No.121, Mahatma Gandhi Road,
Chennai - 600 034. ... Appellant / Appellant

Vs.

M/s.Flowserve Sanmar Ltd.,
9, Cathedral Road,
Chennai - 600 086. ... Respondent / Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, “C” Bench, dated 27.11.2015 in I.TA.No.1735/Mds/2015, Assessment Year 2005-06. Against the order of the Commissioner of Income Tax (A)-6, Chennai dated 18.02.2015 in ITA No.129/CIT (A)-6/2013-2014 pertaining to Assessment Year 2005-2006 against the order of the Deputy Commissioner of Income Tax, Company circle-II(1), Chennai dated in 06.12.2013 in PAN/GIR No.AAACD2238A.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

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

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.Venkat 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 27.11.2015 made in I.TA.No.1735/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai, “C” Bench (for brevity, the Tribunal) for the Assessment Year 2005-06.

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

> "1.Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the disallowance under Section 40A can override the provisions of Sec.40-A(7) when squarely covered under Section 43 B(b), the deduction which is otherwise allowable under any other provisions of the Income Tax Act?
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> 2.Is not the finding of the Tribunal bad especially when the assessee has claimed as a deduction based on a provision for gratuity which was not paid before the due date for filing of the return in the assessment year 2005-06 which is against the statute and is contrary to law?"

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-VII)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,(Appeals-6)
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034.

3.The Deputy Commissioner of Income Tax, Company Circle-II (1),
Room No.511, Wannaparthy Block,
121 MG Road, Nungambakkam
Chennai-34.

+1cc to M/s.Subbaraya Aiyar, Advocate, S.R.No.35130

T.C.A.No.406 of 2016

SRA(CO)
SB(16/08/2021)