IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 27.07.2021

CORAM:

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

T.C.A.No.570 of 2016

The Commissioner of Income Tax - II
121, Nungambakkam High Road,
Chennai - 600 034. ...Appellant/Appellant

Vs.

M/s.Kone Elevator India Pvt. Ltd.,
50-55 & 58, Vanagaram Road,
Ayanambakkam, Chennai - 600 095. ...Respondent/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 13.02.2015 in I.TA.No.366/Mds/2014 for the Assessment Year 2007-08. Order passed against the Commissioner of Income Tax(Appeals)II Chennai-34 in ITA479/2013-14 dated 24.10.2013, against the order of the Deputy Commissioner of Income Tax Company Circle II(4) Chennai in PAN/GIR.No.AAACK2567P dated 31.03.2014 Asst. year 2007-2008.

For Appellant : Mr.Karthik Ranganathan,
Senior Standing Counsel

For Respondent : Ms.Sriniranjani Srinivasan
for M/s.G.Baskar

JUDGMENT

(Judgment was delivered by M.DURAISWAMY, J.)

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel for the appellant/Revenue and Ms.Sriniranjani Srinivasan, 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 13.02.2015 made in I.TA.No.366/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai, "B" Bench (for brevity, the Tribunal) for the Assessment Year 2007-08.

3.The above Tax Case 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 confirming the order of the Commissioner of Income Tax (Appeals) who deleted the penalty levied u/s 271 AA, when the assessee had not maintained the documents relating to international transactions as per the requirement of Section 92D of the Income Tax Act?

2)Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that no penalty u/s 271 AA could be levied merely because the transfer pricing officer had not made any adjustments in respect of international transactions?"

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 is 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 IV)

//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 (Appeals)II,
   Chennai 34.

3. The Deputy Commissioner of Income Tax Company Circle II(4)
   Chennai.

+1 CC to Mr.G.Baskar, Sr.No. 36086.

PVS(CO)
LS(24/08/2021)