IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 02.03.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.No.721 of 2016

Commissioner of Income Tax – 2,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai. ... Appellant

Vs.

M/s.Igarashi Motors India Ltd.,
Plot No.B-12 to B-15,
Phase II, MEPZ SEZ, Tambaram,
Chennai – 600 045. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "D" Bench, dated 24.03.2016 in I.TA.No.878/Mds/2014 Assessment Year 2009-10 against the order of the Deputy Commissioner of Income Tax, Company Circle II(3) Chennai dated 20.02.2014 in PAN No.AAACC1305R for the Assessment Year 2008-2009 against the order of the Joint Commissioner of Income Tax, Transfer Pricing Officer-II, Chennai dated 28/01/2013 in No.I-07/TPO-II/A.Y 2009-10, PAN No.AAACC1305R for the Assessment Year 2009-2010.

For Appellant : Mr.Karthick Ranganathan,
Senior Standing Counsel

For Respondent : Mrs.N.V.Lakshmi
for Mr.N.V.Balaji

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

We have heard Mr.Karthick Ranganathan, learned Senior Standing Counsel for the appellant/Revenue and Mrs.N.V.Lakshmi, 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 24.03.2016 made in I.TA.No.878/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai, "D" Bench (for brevity, the Tribunal) for the Assessment Year 2009-10.

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3.The appeal was admitted on 19.10.2016on the following substantial questions of law:

> "1)Whether on the facts and circumstances of the case, the Appellate Tribunal was right and justified in holding that investment made in sister concerns are not liable for dis-allowance u/s 14A when the provisions of the said Section as well as Rule 8D does not provide for any such exception?
>
> 2)Whether on the facts and circumstances of the case and in law, the Tribunal was justified in not appreciating the fact that investment in shares of sister concerns will also yield only dividend income which is exempt from Income Tax and hence provisions of Section 14A read with Rule 8D are applicable?
>
> 3)Whether on the facts and circumstances of the case and in law, the Tribunal was right and justified in holding that Lucas TVS is not a comparable case for transfer pricing study since it has 25% related party transaction when in fact it had less than 25% related party transaction?
>
> 4)Whether on the facts and circumstances of the case and in law, the Tribunal was correct and justified in holding that Lucas TVS is not a comparable since they are functionally dissimilar when both assessee and the said company are engaged in manufacture and sale of DC micro motors and sub-assemblies for DC motor for automobiles?
>
> 5)Whether on the facts and circumstances of the case and in law, the Tribunal erred in holding that Lucas TVS is not a comparable case for transfer pricing study when assessee itself included such company as a comparable case in subsequent assessment years and that there is no significant change in business operation of the comparable in the present assessment year with that of the subsequent assessment year?"

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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 these cases are 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

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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, "D" Bench

2. The Deputy Commissioner of Income Tax,
   Company Circle II(3), Chennai-34.

3. The Joint Commissioner of Income Tax,
   Transfer pricing Officer-II,
   Chennai-34.

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