IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.02.2021

CORAM:

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

T.C.A.No.1026 of 2014

Commissioner of Income Tax,
Chennai. ... Appellant

Vs.

M/s.Celebrity Fashions Ltd.,
SDF-IV, 3rd Main Road,
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 30.04.2012 in I.TA.No.1318/Mds/2011, Assessment Year 2006-07.

For Appellant : Mr.T.Ravi Kumar,
Senior Standing Counsel
For Respondent : Mr.Koushik
for Mr.S.Sridhar

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

We have heard Mr.T.Ravi Kumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.Koushik, 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 30.04.2012 made in I.TA.No.1318/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai, "D" Bench (for brevity, the Tribunal) for the Assessment Year 2006-07.

3.The appeal was admitted on 23.12.2014 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 disallowance under Section 40(a)(ia) was not proper especially when the assessee has deducted TDS for payment made on commission and

brokerage on 12.12.2004 and 10.02.2006 but had failed to remit the same into the Government account within the last day of the previous year?

2)Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in not considering the amended provisions of Section 40(a)(ia) as per Finance Act, 2008 as per which the TDS amount is to be remitted before the last day of the previous year?

3)Whether the Tribunal was right in upholding the order of CIT(A) in restricting the disallowance to 5% made under Section 14A read with Rule 8D for the assessment year 2006-07 and 2007-08 on the dividend income earned is proper?"

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

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of income tax (Appeals) -III,
Chennai.

3.The Assistant Commissioner of Income Tax,
Company Circle - I (3), Aayakar Bhavan,
New Block, 6th Floor, 121, Mahatma Gandhi Road,
Nungambakkam, Chennai 34.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No. 5064

T.C.A.No.1026 of 2014

SR II(CO)
GN(17/03/2021)