IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2021

CORAM

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

T.C.A.No.215 of 2014

The Commissioner of Income Tax,
Chennai. ... Appellant/Appellant

Vs.

M/s.Professional Access Software
Development Pvt. Ltd.,
7H-Century Plaza, 560-562, Anna Salai,
Teynampet, Chennai - 600 018. ... Respondent/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 11.01.2012 in I.TA.No.1388/Mds/2011, Assessment Year 2005-06.

Against the order of the Commissioner of Income Tax (Appeals)V Chennai-34 in ITA No.331/07-08 dated 05.05.11 in the assessment year 2005-06.

Against the order of the Income Tax Officer (OSD) Company Circle v(2) Chennai dated 26.12.07 PAN AACCP6523C in the assessment year 2005-06.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

For Respondent : No appearance

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

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel for the appellant/Revenue.

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 11.01.2012 made in I.TA.No.1388/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai, "D" Bench (for brevity, the Tribunal) for the Assessment Year 2005-06.

3.The appeal was admitted on 14.07.2014 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 the expenditure incurred in foreign currency towards communication expenses if excluded from the export turnover has also to be excluded from the total turnover?
>
> 2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal failed to consider the specific grounds raised by the department on set off of non STP loss against STP profit and non-consideration of the same amounts to question of law as held by the Madras High Court in the case of South India Surgical reported in 263 ITR 5?"

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 III)

//True Copy//

Sub Assistant Registrar

MKN

To

1.The Income Tax Appellate Tribunal,
Chennai, “D” Bench, Chennai 34.

2.The Commissioner of Income Tax,
Chennai-34

3.The Income Tax Officer,
121, Mahatma Gandhi Road,
Nungumbakkam, Chennai-34.

4.The Income Tax Appeals V,
Chennai-34.

5.The Income Tax Officer(OSD)
Company Circle V(2)
Chennai.

T.C.A.No.215 of 2014

MG (CO)
TE (19/04/2021)