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.376 of 2014

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

Vs.

M/s.Alden Prepress Services
"B" Block, 20 North Usman Road,
T.Nagar, Chennai - 600 017. ... 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 02.07.2013 in I.TA.No.927/Mds/2008, Assessment Year 2004-05, confirming the order of the Commissioner of Income Tax(Appeals)-XI, Chennai in Appeal No-CIT (A)-XI/CHE/49/07-08 dated 30.01.2008 against the Assessment order passed by the Income Tax Officer(OSD) Company Circle I(4), Chennai in PAN.No.AACCA8961E dated 27.12.2006 for the assessment year 2004-2005 and against the order of the Transfer presiding officer-1, dt-21/12/2006 for the assessment year 2004-05, made in AACCA8961E.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.Ashokapathy
for M/s.Pass Associates



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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.Ashokapathy for M/s.Pass Associates, 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 02.07.2013 made in I.TA.No.927/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai, "D" Bench (for brevity, the Tribunal) for the Assessment Year 2004-05.

3.The appeal was admitted on 03.08.2015 on the following substantial questions of law:

> "1.Whether on the facts and circumstances of the case, the Tribunal was right in upholding the order of CIT(A), who deleted the addition of Rs.1,58,59,366/- on account of ALP under Section 92CA which was determined by the TPO?
>
> 2.Whether the Tribunal was right in upholding the order of CIT(A), without appreciating the fact that the TPO had clearly mentioned that the price charged for international transaction has not been determined in accordance with Sec.1(2) of Sec.92C?
>
> 3.Is not the finding of the Tribunal bad by holding that the global market price should be adopted which is not a prescribed method under Section 92C of the I.T. Act especially when reasons had been given by the TPO for rejecting such method and adopted TNMM Method?"

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(CO)

//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,
Chennai.

3.The Commissioner of Income Tax(Appeals)-XI,
Chennai.

4.The Income Tax Officer(OSD)
Company Circle I(4), Chennai.

5.The Additional Commissioner of Income Tax,
Chennai-1.

+1cc to Mr.T.Ravi Kumar, Advocate, S.R.No.17828
+1cc to M/s.Pass Associates, Advocate, S.R.No.18092

T.C.A.No.376 of 2014

GMI(CO)
CB(17/04/2021)