IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

CORAM :

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

T.C.A.Nos.757 and 758 of 2014

The Commissioner of Income Tax,
Chennai. ... Appellant in all appeals

Vs.

M/s.Computer Sciences Corpn India Pvt. Ltd.
Unit 13, Block 2, SDF Buildings,
Madras Export Processing Zone,
Tambaram, Chennai – 600 045. ... Respondent in all appeals

Tax Case Appeals in T.C.A.Nos.757 and 758 of 2014 preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, “B” Bench, dated 03.03.2014 in I.T.A.Nos.1409/Mds/2013 and 1205/Mds/2013, respectively for the Assessment Year 2008-09 as against the order of the Commissioner of Income Tax (Appeals)-IX, Chennai-34 dated 21/03/2013 made in I.T.A.No.407/2011 to 2012 for the Assessment year 2008 to 2009 against the order of the Assistant Commissioner of Income Tax, Company Circle-1(3), Chennai-34 dated 23/12/2011 made in Pan No.AAACC1351M for the Assessment year 2008 to 2009.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel
in Both appeals

For Respondent : Mr.R.Venkata Narayanan
for M/s.Subbaraya Aiyar
in Both appeals

COMMON JUDGMENT

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.R.Venkata Narayanan for

M/s.Subbaraya Aiyar, learned counsel for the respondent/assessee.

2.The above appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act), are directed against the order dated 03.03.2014 made in I.T.A.Nos.1409/Mds/2013 and 1205/Mds/2013, on the file of the Income Tax Appellate Tribunal, Madras, "B" Bench (for brevity, the Tribunal) for the Assessment Year 2008-09.

3.The above appeals were admitted on 17.11.2014 on the following substantial questions of law:

T.C.A.No.757 of 2014 :

> "1.Whether on the facts and circumstances of the case, the Tribunal was right in holding that Section 14A was applicable prospectively and Rule 8D should not be invoked for the period 1.4.2007 to 23.3.2008, especially when the same was notified on 24.3.2008?
>
> 2.Is not the finding of the Tribunal bad by restricting the disallowance made under Section 14A to Rs.35 Lakhs as against Rs.97,78,639/- by holding that Rule 8D could not be invoked for the period 1.4.2007 till 23.3.2008, especially when the provisions of Rule 8D had been notified with effect from 24.3.2008 and had been made applicable for the assessment year 2008-2009 onwards?"

T.C.A.No.758 of 2014 :

> "1.Whether on the facts and circumstances of the case, the Tribunal was right in holding that exclusion of telecommunication charges and expenditure incurred in foreign currency were to be excluded from the export turnover and also from the total turnover?
>
> 2.Whether on the facts and circumstances of the case, the Tribunal was right in directing the Assessing Officer to recompute the income in the light of the decision of the Special Bench in the case of Sak Soft by excluding the freight and insurance expenses both from the export turnover and also from the total turnover while computing deduction under Section 10B of the Income Tax Act?
>
> 3.Is not the finding of the Tribunal bad, especially when in Section 10B(2)(iv) of the Income Tax Act the word Export turnover had been defined whereby it would not include freight telecommunication

charges, insurance attributable to the delivery of the articles or things or computer software outside India or expenses if any incurred in foreign exchange while providing the technical services outside India?”

4.The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 is less than the threshold limit.

5.In the light of the said submissions, the above Tax Case Appeals are 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 these cases 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 above appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Income Tax Appellate Tribunal,
   Madras, “B” Bench.

2. The Commissioner of Income Tax,
   Appeals – IX, Chennai.

3. Assistant Commissioner of Income Tax,
   Company Circle – 1(3),
   Chennai – 600 034.

+1cc to M/s.Subbaraya Aiyar, Advocate, S.R.No.28313
+2cc to Mr.T.Ravikumar, Advocate, S.R.No.28263, 28264

T.C.A.Nos.757 and 758 of 2014

KV(CO)
HS(23/07/2021)