IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM

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

T.C.A.No.25 of 2017

Commissioner of Income Tax-4,
No.121, Mahatma Gandhi Road,
Chennai – 600 034. ...Appellant

Vs.

M/s.Mustang Trading and Investments Pvt. Ltd.,
112, 5th Floor, Eldarado,
Nungambakkam High Road,
Chennai – 600 034. ...Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 29.07.2016 in I.TA.No.129/Mds/2016, Assessment Year 2007-08 against the order of the Commissioner of Income Tax (Appeals)-8, Chennai dated 26.10.2015 in I.TA.No.31/2012-2013, G.I. No./P.A. No. AAACM4620P for the Assessment year 2007-2008 against the order of the Assistant Commissioner of Income Tax, Company Circle IV(3) Chennai dated 06.02.2013 in P.A. No. AAACM4620P for the Assessment year 2007-2008.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel
and Mr.S.Rajesh,
Standing Counsel

For Respondent : Notice served

JUDGMENT

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

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel and Mr.S.Rajesh, learned 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 29.07.2016 made in I.TA.No.129/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai, “A” Bench (for brevity, the Tribunal) for the Assessment Year 2007-08.

3.The appellant/Revenue has raised the following substantial questions of law in the above appeal :

> “1.Whether on the facts and circumstances of the case, the Tribunal was right in holding that Rule 8D is not applicable for the pending proceedings relating to Assessment year 2007-08, when Income Tax Rules are held to be procedural in nature and applicable for all pending proceedings by the Apex Court in CWT-Vs-Sharvan Kumar Swarup & Sons reported in 210 ITR 886?
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> 2.Whether, in the facts and circumstances of the case and in law, the Appellate Tribunal is correct in deleting the addition made to book profits computed u/s.115JB being expenditure incurred to earn exempt income even though clause (f) of explanation 1 to Section 115JB specifically provides for it under Income Tax Act, 1961?”

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.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

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

2.The Commissioner of Income Tax-4
No.121, Mahatma Gandhi Road,
Chennai 34.

3.The Commissioner of Income Tax (Appeals)-8
No.121, Mahatma Gandhi Road, Chennai 34.

4.The Assistant Commissioner of Income Tax
Company Circle (IV)(3) Chennai

T.C.A.No.25 of 2017

SMI(CO)
SP(09/08/2021)