IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

T.C.A.No.167 of 2009

M/s. Macmillan India Limited,
21, Pattullos Road,
Chennai - 600 002. ...Appellant/Respondent

Versus

The Deputy Commissioner of Income Tax,
Special Range VII,
Chennai. ...Respondent/Appellant

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, “C” Bench Chennai, dated 08.10.2003 in I.TA.No.47/Mds/94 preferred against the order dated 28.10.1993 in ITA No.24/93-94/SR VII on the file of the Commissioner of Income Tax(Appeals) II Madras 600034 filed against the Assessment order of the Deputy Commissioner(IT) Special Range VII, Madras dated 23.03.1993 for the Assessment year 1990-91.

For Appellant : Mr.Subbaraya Aiyar

For Respondent : Mr.Karthik Ranganathan,
Senior Standing Counsel

J U D G M E N T
(Judgment of this Court was delivered by R.MAHADEVAN, J.)

This tax case appeal has been filed by the appellant / Assessee, challenging the order dated 08.10.2003 passed by the Income Tax Appellate Tribunal, Chennai 'C' Bench, in I.TA.No.47/Mds/94, relating to the assessment year 1990-91.

2.By order dated 22.04.2009, this court admitted the aforesaid tax case appeal on the following substantial questions of law:

"1. Whether on the facts and in the circumstances of the case, the Tribunal was right in concluding that the receipts does not arise for eligible business for the purpose of section 32AB, which is against the ratio of the decision of the Apex Court in the case of Appollo Tyres Ltd (255 ITR 273) wherein the profits of the eligible business for the purpose of Section 32AB has been explained?

2. Whether the Tribunal was right in holding that the above receipts cannot be considered as business income without appreciating that the profits of the eligible business or profession has to be computed under section 32AB(3) in accordance with part II and Part III of the Sixth Schedule of the Companies Act and not in accordance with the provisions of Income Tax Act?

3. Whether on the facts and circumstances of the case the tribunal ought to have appreciated that any income not derived from types of business excluded under clause (a) and (b) of sub-section 2 of Section 32AB shall constitute income from eligible business for the purpose of Section 32AB as per the ration of the decisions of the Apex Court in the case of Appollo Tyres Ltd (255 ITR 273) and the decision of the jurisdictional High Court in the case of Carborandum Universal Ltd (265 ITR 372)".

3. When the matter was taken up for hearing, the learned counsel for the appellant sought permission of this Court to withdraw this Tax Case Appeal. He has also filed a memo dated 04.01.2022 to that effect.

4.Recording the above submission and the memo filed on the side of the appellant, permission is granted to withdraw the case and accordingly, this Tax Case Appeal is dismissed as withdrawn, keeping open the substantial questions of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar, The Income Tax Appellate Tribunal,
   Chennai 'C' Bench,

2. The Deputy Commissioner of Income Tax,
   Special Range VII,
   Chennai.

3. The Commissioner of Income Tax,
   Appeals II, Madras.

RSI(CO)
KKV/01/02/2022