IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

T.C.A.Nos.1266 to 1268 of 2010

Commissioner of Income Tax - I,
Chennai. ..Appellant in all TCAs

Versus

M/s. DSM Soft Pvt. Ltd
1, 15th Cross Street
Shastri Nagar
Chennai – 600 020 ..Respondent in all TCAs

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961, against the common order of the Income Tax Appellate Tribunal, Chennai, "A" Bench, dated 11.06.2010 in I.TA.Nos. 12, 366 & 367/Mds/2010 against the order of the Commissioner of Income Tax Appeals III Chennai – 600 034 dated 08.12.2009 in ITA.No.416/07-08 & 417/-7-08 for the assessment year 2005-06 & 2004-2005 against the order of the Income Tax Officer (OSD) company Circle I (4), Chennai dated 27.12.2007 & 24.12.2007 GI.No/PAN No.AAACD3149A for the Assessment year 2005-2006 & 2004-2005.

For Appellant : Mr.T.Ravikumar
and M/s.R.Hemalatha
Senior Standing Counsel in all TCAs

For Respondent : Mr.R.Sivaraman in all TCAs

COMMON JUDGMENT
(Judgment of the Court was delivered by R. MAHADEVAN, J.)

These tax case appeals have been filed by the appellant / Revenue, challenging the order dated 11.06.2010 passed by the Income Tax Appellate Tribunal, Bench 'A', Chennai, in I.TA.Nos.12, 366 and 367/Mds/2010, relating to the assessment years 2004-2005 and 2005-2006.

2.By order dated 07.02.2011, this court admitted the aforesaid tax case appeals on the following substantial question of law:

> "Whether on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal was right in deleting the disallowance of interest on borrowed capital diverted for giving interest free loans to the group concerns of the assessee, viz. M/s.Margon Industries Ltd. and M/s.DSM Infosystems P. Ltd. and for investment in the equity shares or the assessee's subsidiary company M/s.DSM Deodata Ltd. applying the decision of the Supreme Court in 288 ITR 1 without considering the difference in the facts involved in the assessee's case?"

3.When the matters were taken up for consideration, the learned counsel for the appellant / Revenue brought to the notice of this court the Circular No.17/2019 dated 08.08.2019 issued by the Central Board Direct Taxes, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore). It is also submitted that the tax effect in these appeals is less than the threshold limit and there is no audit objection involved. The learned counsel also filed a memo to that effect.

4.In the light of the aforesaid submissions made by the learned counsel for the appellant / Revenue, the present appeals, wherein, the tax effect is said to be less than the monetary limit imposed, are dismissed as withdrawn, keeping open the substantial question of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

dhk/av

To

1. The Income Tax Appellate Tribunal,
   Bench 'A', Chennai

2. The Commissioner of Income Tax - I,
   Chennai.

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

4. The Commissioner of Income Tax (Appeals) - III
   Chennai

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

+1cc to Mr.Ravikumar, Advocate, S.R.No.20923

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MG(CO)
RGA(21/04/2022)