IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2022

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN

AND

THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal No.236 of 2019

The Principal Commissioner of Income Tax
Central-4,
No.121, Mahatma Gandhi Road,
Chennai. ... Appellant

Vs.

M/s.M.Ct.M.Global Investments Pvt. Ltd.,
761, Anna Salai,
Chennai - 600 002. ... Respondent
(PAN AAB CM 9738 K)

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, "A" Bench, Chennai, dated 21.10.2016 passed in C.O.No.200/Mds/2009.

For Appellant : Mr.J.Narayanaswamy
Senior Standing Counsel

J U D G M E N T

(Judgment was delivered by R. MAHADEVAN, J.)

This Tax Case Appeal has been filed by the appellant / Revenue challenging the order dated 21.10.2016 passed by the Income Tax Appellate Tribunal, Chennai 'A' Bench in C.O.No.200/Mds/2009 for the Assessment Year 2006-07, by raising the following substantial questions of law :

"(i) Whether on the facts and in the circumstances of the case and in law, the ITAT was right in excluding the profit on foreign exchange fluctuation credited in the Profit & Loss account even though there is no provision in the Income Tax Act to make such deduction?

(ii) Whether on the facts and circumstances of the case and in law, the ITAT was correct in holding that profit on foreign exchange fluctuation is notional even though Rule 115 provides for such adjustment?

(iii) Whether on the facts and circumstances of the case and in law, the Appellate Tribunal is erred in not following the ratio laid down by the Apex Court in Woodward Governor India P. Ltd., [312 ITR 254]?

(iv) Whether the Appellate Tribunal was right in allowing deduction towards provision for diminution in value of current investments when such assessee are not 'stock-in-trade' and not appearing in the Profit & Loss account?

(v) Whether on the facts and circumstances of the case and in law, the Tribunal was right in holding that Rule 8D is not applicable for the pending proceedings relating to Assessment Year 2008-09 when IT 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 [2010 ITR 886]?

(vi) Whether on the facts and circumstances of the case and in law, the Appellate Tribunal erred in dismissing the appeal of the Revenue after holding that gain/loss on Foreign Exchange fluctuation is notional only and whether such contradictory order of the Tribunal is not perverse?"

2. When the matter was taken up for consideration, the learned Standing 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 appeal 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 this appeal is less than the threshold limit.

3. In the light of the aforesaid submissions made by the learned Standing Counsel for the appellant / Revenue, the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial questions of law for determination in an appropriate case. No costs.

[R.M.D, J.] [M.S.Q, J.]
26.08.2022

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Internet : Yes.
Index : Yes / No.

To

1. The Additional Commissioner of Income Tax,
   Company Range-IV, Chennai - 600 034.

2.The Commissioner of Income Tax (Appeals)-V,
   Chennai.

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

R. MAHADEVAN, J.
and
MOHAMMED SHAFFIQ, J.

r n s

Tax Case Appeal No.236 of 2019

26.08.2022