IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.174 of 2024

Principal Commissioner of Income Tax-3
Corporate Ward 6(1), 121, Nungambakkam
High Road, Chennai 600 034. .... Appellant

Vs.

Sunsmart Technologies Pvt Ltd
25, Yellow Buildings, 25, RK Salai
V Floor, Opp.HSBC Bank, Mylapore
Chennai 600 004
PAN : AAJCS7454C .... Respondent

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 31.10.2023 made in I.T.A.No.173/Chny/2023.

For Appellant : Mr.J.Narayanaswamy
Senior Standing Counsel

J U D G M E N T
(Delivered by R.SURESH KUMAR, J.)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Chennai by raising the following substantial questions of law:

1. *Whether on the facts and in the circumstances of the case and in law, the ITAT was right in law in quashing the revision order u/s.263 of the Income Tax Act without regard to the set judicial precedents of the Hon'ble Supreme Court and Delhi High Court?*

2. *Whether on the facts and circumstances of the case and in law, the ITAT has erred in quashing the revision order U/s.263 when the PCIT after verification of the records found that no verification / enquiry was made by the AO about the claim of expenses of Rs.2,13,11,528/- paid to M/s.SSG Technologies LLC, Dubai as per the agreement and therefore the said assessment order is covered by clause(a) to Explanation 2 to Section 263 making it an order deemed to be erroneous and prejudicial to the interests of the revenue?*

3. *Whether the ITAT was right in law in quashing the revision order u/s.263 which is a power by way of remedial action in-built into the Act, to arrest leakage of revenue based on Revenue Audit Objection?*

2. By the impugned order passed under Section 263 of the Income Tax Act by the Revisional Authority, the matter has been remanded originally to the assessing authority, where the proposed tax, even if it is imposed, would be

less than the tax effect as per the CBDT's Circular No.9 of 2024 dated 17.09.2024.

3. Therefore, this Tax Case Appeal is dismissed for low tax effect, keeping open the substantial questions of law for adjudication at appropriate stage. No costs.

(R.S.K.,J.) (C.S.N.,J.)
21.10.2024

NCS : Yes/No
KST

To

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

R.SURESH KUMAR, J.

AND
C.SARAVANAN, J.

KST

T.C.A.No.174 of 2024

21.10.2024