IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
AND
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

Tax Case (Appeal) No.361 of 2007

Commissioner of Income Tax,
Chennai. .. Appellant

Vs.

M/s.Iqra Traders (P) Ltd.,
38, Park Centre,
14, Venkatnarayana Road,
T.Nagar,
Chennai-17. .. Respondent

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act against the order dated 10.11.2006 made in I.T.A.No.852/Mds/2005 on the file of the Income Tax Appellate Tribunal, Madras 'A' Bench.

For appellant : Mr.T.R.Senthilkumar,
Standing Counsel for Income Tax.
For respondent : No appearance

JUDGMENT

(Judgment of the Court was delivered by Nooty.Ramamohana Rao,J)

This Tax Case Appeal being an old matter, has been taken up for final disposal by us today. This appeal is preferred by the Commissioner of Income Tax, Chennai, aggrieved by the order, dated 10.11.2006, passed by the Income Tax Appellate Tribunal, 'A' Bench, Madras, in I.T.A.No.852/Mds/2005, raising the following questions of law :

(1) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessee was covered by item (x) of the schedule Twelve and was eligible for deduction u/s.80 HHC, when item (x) refers only to cut and polished minerals and rocks including cut and polished granites, and when item (i) specifically refers to quartz ?

(2) Whether in the facts and circumstances of the case, the Tribunal was right in allowing the deduction when the size of the Quantity Lump exported is between 50 mm to 300 mm, when the Schedule specifically mentions the said minerals should be pulverized and micronised ?

2. Circular No.21 of 2015, dated 10.12.2015, issued by the Central Board of Direct Taxes, New Delhi, deals with the subject matter of revision of mandatory limits for filing of the appeals by the Department before the Income Tax Appellate Tribunal, High Courts and Special Leave Petitions before the Supreme Court. Various measures are devised from time to time for reducing the unproductive litigations. In paragraphs 3 and 10 of the said Circular, the following instructions have been issued:

"3. Henceforth, appeals/SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:-

Sl. No.	*Appeals in Income-tax matters*	*Monetary Limit (in Rs.)*
1	Before Appellate Tribunal	10,00,000/-
2	Before High Court	20,00,000/-
3	Before Supreme Court	25,00,000/-

It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case."

"10. The instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed."

3. From the above instructions contained in the Circular, it is clear that the pending appeals before the High Court, below the specified tax limits as stated in paragraph 3 of the Circular, are liable to be withdrawn/not pressed. Insofar as the limit prescribed in paragraph 3 for appeals before the High Court is concerned, it is set out at Rs.20 lakhs. The total tax effect in the instant case is to the value of Rs.14,17,468/- and, hence, it being less than the limit of tax effect specified in paragraph 3 of the said Circular at Rs.20 lakhs, this appeal deserves to be dismissed either as withdrawn or not pressed.

4. At this stage, learned Standing Counsel appearing for the appellant/Revenue (Department), having noticed the instructions contained in the said Circular, urged that he has already taken up the matter with the Department,

but, however, he has not received any instructions in writing from the Department and, hence, he cannot withdraw this appeal.

5. It is appropriate to notice that the Central Board of Direct Taxes has issued the instructions contained in the said Circular in exercise of its power available to it under Section 268-A(i) of the Income Tax Act,1961 and, hence, the Circular has a statutorily enforceable character. In that view of the matter, we treat this appeal as dismissed as not pressed, and dismiss it as such. However, it goes without saying that the questions of law raised in this appeal for consideration of this Court are kept open to be adjudicated on merits in appropriate cases. No costs.

(N.R.R.,J.) (A.S.M.,J.)

dixit 23.11.2016

NOOTY.RAMAMOHANA RAO,J.
AND
ANITA SUMANTH,J.

dixit

T.C.A.No.361 OF 2007

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