In the High Court of Judicature at Madras

Dated : 02.2.2016

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice N.KIRUBAKARAN

T.C.A.No.825 to 827 of 2007

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

Vs

M/s.Gandhimathi Appliances Ltd.,
Chennai-18. ...Respondent

APPEALS under Section 260-A of the Income Tax Act against the common order dated 9.11.2004 made in I.T.A.Nos.1245, 1246 and 1537 (Mds)/1998 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai.

For Appellant : Mr.T.R.Senthilkumar
For Respondent : Mr.A.S.Sriraman for Mr.Meenakshi Sundaram

COMMON JUDGMENT
(JUDGMENT WAS DELIVERED BY V.RAMASUBRAMANIAN,J)

These three appeals, arising out of the assessments for the assessment years 1989-90, 1990-91 and 1991-92, were admitted on 4.7.2007 on the following substantial questions of law :

"(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition of finance charges payable to the appellant by the sister concern, which had claimed it as deduction in the assessment for the assessment year 1989-90 by the sister concern Butterfly Home Appliances and assessment of the sister concern had not reached finality ?

(ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition made towards the interest on the advances made to the sister concern on the ground that the assessee had made interest free advances to its sister concern ? and

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition of Rs.24,71,551/- made by the Assessing Officer while determining the book profit under Section 115J where the said amount was credited to capital reserve account ?"

2. Heard Mr.T.R.Senthilkumar, learned Standing Counsel for the Department.

3. The income determined and the tax levied for the assessment years 1989-90, 1990-91 and 1991-92, which have become the subject matter of the present three appeals, can be tabulated as follows :

S No	*Assessment Year*	*Income determined in Rs.*	*Tax levied in Rs.*
1	*1989-90*	*5,70,980/-*	*3,28,740/-*

2	*1990-91*	*13,18,610/-*	*7,83,254/-*
3	*1991-92*	*(-)16,00,527/-*	*NIL*
		Total	*11,12,994/-*

4. By a recent circular in Circular No.21/2015 dated 10.12.2015, the Central Board of Direct Taxes has already taken a decision not to pursue the appeals, whose monetary value is less than the ceiling limit prescribed therein. All the three cases on hand fall within the parameters indicated in the circular. The circular has actually been given retrospective effect as seen from paragraph 10 of the circular.

5. We had a small doubt about the applicability of this circular, in view of the third question of law. But, on a careful scrutiny of the order of assessment for the assessment year 1990-91, it is seen that the book profit as declared was Rs.15,80,817/-. Even after adding Rs.24,71,551/- towards profit arising out of the sale of die sets, the total income came to only Rs.13,18,610/- on the principle that 30% of the original income had to be taken into account. Therefore, all the three cases on hand fall within the parameters indicated in the circular.

6. Accordingly, the appeals are dismissed. The questions are left unanswered. No costs.

02.2.2016

Internet : Yes
To
The Income Tax Appellate Tribunal, 'A' Bench, Chennai.

RS

V.RAMASUBRAMANIAN,J
AND
N.KIRUBAKARAN,J

RS

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