IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.11.2016

Coram:

The Hon'ble Mr.Justice NOOTY.RAMAMOHANA RAO
AND
The Hon'ble Dr.Justice ANITA SUMANTH

Tax Case Appeal Nos.739, 740 and 767 of 2016

The Commissioner of Income Tax,
Chennai. .. Appellant in all cases

Versus

M/s. A.L.Logistics Private Limited
113, Armenian Street,
Chennai - 600 001. .. Respondent in all cases

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 29.01.2016 in ITA Nos.1814/Mds/2015, 1815/Mds/2015 and 1816/Mds/2015 against the order passed by the Commissioner of Income Tax (Appeals) Chennai dated 26.5.2015 made in ITA.Nos.145/14-1/A1 (New No.ITA 97/CIT (A)-1/2014-15 ITA.No.144/14-15/A-1 (New NO.ITA.96 / CIT(A)-1/2014-15 and, ITA No.142/14-15/A-1 New No.ITA 95/ CIT(A(-1 / 2014-15 respectively and against Assessment order passed by the Deputy Commissioner of Income Tax Company Circle -1(1) Chennai dated 19.3.2014 and 28.2.2014 and 28.2.2014 for the assessment year 2007-08 , 2008-09 and 2011-12 respectively and made in GIR/PAN No.AX-7133- AAECA5279L.

For Appellant .. Mr.Arunkurian Joseph
Standing Counsel

COMMON JUDGMENT

(Judgment of the Court was delivered
by NOOTY.RAMAMOHANA RAO., J)

These three Tax Case Appeals are preferred by the Revenue under Section 260-A of the Income Tax Act, 1961, calling in question the correctness of the orders passed by the Income Tax Appellate Tribunal 'B' Bench, Chennai, dated 29.01.2016 in ITA Nos.1814/Mds/2015, 1815/Mds/2015 and 1816/Mds/2015.

2. The following four substantial questions of law are raised for consideration in these Tax Case Appeals:-

(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the disallowance made u/s 80IA(4) of the Income Tax Act?

(ii) Whether the finding of the Tribunal is correct in holding that the container freight station could be treated as inland port and therefore assessee is eligible for deduction u/s 80IA(4)?

(iii) Is not the finding of the Tribunal bad especially when the conditions imposed u/s 80IA(i)(b) had not been complied with by the assessee?

(iv) Whether the Tribunal was right in not appreciating the fact that the amendment to Section 80IA(4) Explanation was introduced with effect from 01.04.2002 omitted the word "Any other public facility of similar nature" and thereby wrongly allowing deduction u/s 80IA(4) on income from container freight station?

3. Heard Mr.Arun Korean Joseph, learned Standing Counsel for the Income Tax Department .

4. It will be relevant to notice at the very outset that in the very same Assessee's case, the matter has been brought before this Court, raising the very same substantial questions of law, a Division Bench of this Court by its Judgment dated 23.12.2014, reported in 374 ITR 609, decided the issue in favour of the Assessee and against the Revenue. It appears that the Revenue has gone in further appeal before the Supreme Court and leave was granted and Civil Appeal No.4983 of 2015 is pending before the Supreme Court. Therefore, the learned Standing Counsel for the Income Tax Department would urge that we may grant admission to these Tax Case Appeals and keep them pending till such time the Supreme Court decides the issue.

5. On the other hand, we consider that it would only be appropriate to follow the reasoning assigned by the Division Bench of this Court in the Judgment rendered earlier, that was reported in 374 ITR 609 which is the subject matter of consideration in Civil Appeal No.4983 of 2015. Particularly when the operation of the judgment of this Court is not suspended.

6. Hence, we do not consider it appropriate to keep these Tax Case Appeals pending in this Court. Accordingly, we dismiss these three Tax Case Appeals. We prefer to follow the reasonings adopted by the Division Bench of this Court in the Judgment reported in 374 ITR 609 and for the very same reasons,

we answer the substantial questions of law in favour of the Assessee and against the Revenue. Consequently, connected C.M.P.Nos. are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

gr.

To:

1. The Assistant Registrar,
Income Tax Appellate Tribunal,
Madras 'B' Bench,
III Floor, Rajaji Bhavan, Besant Nagar
chennai-90 Chennai.

2. The Commissioner of Income Tax,
Chennai

3. The Commissioner
Income tax Appeals-1, Chennai

4. The Deputy Commissioner of Income Tax
Company Circle 1(1) Chennai

1 cc to MR.T. Ravikumar, St. Counsel Income tax Department, Sr. 64276

T.C.A.Nos.739, 740 and 767 of 2016

RSY (CO)
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