IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:13.02.2017

Coram:

The Hon'ble Mr.Justice HULUVADI G.RAMESH
AND
The Hon'ble Dr. Justice ANITA SUMANTH

TAX CASE APPEAL Nos.119, 120 and 121 of 2017

Commissioner of Income Tax,
Corporate Circle - 2,
Madurai. .. Appellant in all appeals

Versus

M/s. Thiagarajar Mills Limited,
Thiagarajar Mills Premises,
Kappalur, Madurai. ..Respondent in all appeals

Tax Case Appeals filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal "C" Bench, Chennai dated 19.2.2016 passed in I.T.A.Nos.1417/Mds/2015, 1419/MDS/2015 and 1418/MDS/2015 respectively, preferred against the orders of Commissioner of Income Tax (Appeals-I), Madurai, in ITA.Nos.108/11-12, 25/14-15 and 27/13-14 dated 20/03/2015 assessment year, 2009-2010, 2011-2012 and 2010-2011 respectively which were preferred against the assessment Orders passed by the Joint Commissioner of Income Tax Range-I, Madurai dated 27/12/2011 in PAN.No.AAACT4304R for the assessment year 2009-2010, Deputy Commissioner of Income Tax, Circle -I(I), Madurai dated 25.03.2014 & 26.03.2013 for the assessment years 2011-12 and 2010-11 respectively.

For Appellant in all appeals .. Mr.M.Swaminathan

C O M M O N J U D G M E N T

These Tax Case Appeals are filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, "C" Bench, Chennai dated 19.2.2016 in I.T.A.Nos.1417/Mds/2015, 1418/MDS/2015 and 1419/MDS/2015, in respect of the Assessment Years 2009-10, 2010-11 and 2011-12 respectively. The following substantial questions of law have been raised for our consideration:

> '1. Whether on the facts and circumstances of the case, the Appellate Tribunal was in right in allowing the deduction under section 80IA of the Income Tax Act, when there is no positive income from the Industrial undertaking during the initial assessment year?

2. Whether on the facts and circumstances of the case the Income Tax Appellate Tribunal was right in holding that the assessee is entitled to deduction under section 80IA following the decision of the jurisdictional High Court in the case of M/s.Velayuthasamy Spinning Mills (340 ITR 477) when the same is pending before the Supreme Court in SLP Civil 1136/11?

3. Whether on the facts and circumstances of the case the Income Tax Appellate Tribunal was correct in holding that the initial assessment year to section 80IA (5) would only mean the year of claim of deduction under section 80IA and not the year of commencement of eligible business?'

2. Learned counsel appearing for the Revenue would fairly bring to our notice that the decision of this Court in the case of Velayuthasamy Spinning Mills Vs Assistant Commissioner of Income-tax, Tirupur (340 ITR 477) deciding the issue in question, in favour of the Assessee has confirmed by the Hon'ble Supreme Court in Assistant Commissioner of Income-tax, Tirupur Vs. Velayudhaswamy Spinning Mills (P) Ltd (2016) 76 taxmann.com 176(SC)

3. The Tax Case (Appeals) stand dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msr/sl

To

1.The Commissioner of Income Tax (Appeals-I), Madurai.

2.The Joint Commissioner of Incoem Tax, Range-I, Madurai.

3.The Deputy Commissioner of Income Tax Circle I (1), Madurai.

4)The Income Tax Appellate Tribunal (C)' Bench, Chennai.

BR(CO)

GN(03/10/2017)