In the High Court of Judicature at Madras

Dated : 14.12.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice K.RAVICHANDRABAABU

Tax Case Appeal Nos.681 & 682 of 2017
& CMP.No.17686 of 2017

The Commissioner of Income Tax,
Chennai. ...Appellant/Respondent

Vs

M/s.Axles India Ltd., Chennai-2. ...Respondent/Appellant

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 10.11.2016 made in ITA.Nos.2269 and 2270/Mds/2016 on the file of the Income Tax Appellate Tribunal, 'B' Bench, Chennai respectively for the assessment years 2010-11 and 2011-12. Against the order of the Commissioner of Income-Tax (Appeals)-17 Chennai 600 034 dated 30/03/2016 made in ITA.No.29/10-11& 72/11-12/CIT(A)-17, and

against the order of the Deputy Commissioner of Incomet Tax LTU-11, Chennai 101 dated 30/01/2015 made in PAN/GIR No.AAACA3173D.

For Appellant : Mr.T.Ravikumar, SSC

COMMON JUDGMENT

(Judgment was delivered by T.S.SIVAGNANAM,J)

Heard the learned Senior Standing Counsel for the Revenue.

2. These appeals have been filed by the Revenue raising the following substantial questions of law :

"i. Whether on the facts and in the circumstances of the case, the Tribunal was right in law by holding that the additional depreciation can be allowed in an assessment year other than the assessment year, in which, the new plant and machinery was acquired and installed ?

ii. Is not the finding of the Tribunal bad by allowing the balance 50% of the additional depreciation subsequently when Section 32(2A) allows for and restricts the allowance to the year to which the plant and machinery was installed ?

iii. Whether the order of the Tribunal is proper by not following the Coordinate Bench decision in the case of Brakes India Ltd. - 96 DTR 281 and in the case of CRI Pumps Ltd. - 34 Taxmann 123, which are binding and is against the principles of Rule of Consistency ? and

iv. Whether the reasoning and finding of the Tribunal is proper by directing the Assessing Officer to grant balance part of the additional depreciation in the subsequent assessment year when such allowance was granted only by Finance Act, 2016 with effect from 01.4.2016 and the present assessment years are 2010-11 and 2011-12 and therefore not applicable ? "

3. It is not in dispute that the questions, which have been raised in these appeals, have been considered and decided against the Revenue and in favour of the assessee in the decisions of this Court in the case of CIT Vs. Shri T.P.Textiles Pvt. Ltd. [reported in (2017) 394 ITR 483] and in the case of M/s.Brakes India Ltd. Vs. DCIT [TCA.No.551 of 2013 dated 14.3.2017].

4. Following the said decisions, these appeals are dismissed and the questions framed are answered in favour of the assessee and against the Revenue. Consequently, the connected CMP is also dismissed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To
1.The Income Tax Appellate Tribunal, 'B' Bench, Chennai.

2.The Commissioner of Income Tax(Appeals)-17
Chennai 600 034

3.The Deputy Commissioner of Income-Tax
LTU-11 Chennai 600 101

+1 cc to Mr.T.Ravikumar Advocate sr 88962

TCA.Nos.681 & 682 of 2017
and CMP.No.17686 of 2017

ev(co)
aa03/01/2017