IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:14.02.2017

Coram:

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

TAX CASE APPEAL No.122 of 2011

Commissioner of Income Tax - I,
Chennai
.. Appellant

Versus

M/s Arkay Leathers (P) Ltd
106, G.S.T. Road, Chrompet
Chennai - 600 044
.. Respondent

Tax Case Appeal file under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'A' Bench, Chennai dated 14th October 2010 passed in I.T.A.No.212/Mds/2010 preferred against the order dated 02.11.2009 made in I.T.A.No.6/07-08/A on the file of the Commissioner of Income tax, (A)-III, Chennai, for the Assessment year 2003-04 and

Against the order dated 12.02.2007 made in G.I.R.No.AX4-145/2003-2004, on the file of the Assistant Commissioner of Income Tax, Company Circle I(1), Chennai, and

Against the order dated 29.03.2006 made in I.T.NS.65 on the file of the Assistant Commissioner of Income Tax Company Circle-I(1), Chennai, for the Assessment year 2003-2004.

For Appellant .. Mr.T.Ravikumar

For Respondent .. Mr. R. Kumar for T.N. Seetharaman

JUDGMENT

The Tax Case Appeal filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, "C" Bench, Chennai dated 14th October 2010 passed in I.T.A.No.212/Mds/2010 has been admitted on 14.09.2011 for consideration of the following substantial questions of law:

> "1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in confirming the order of the Commissioner of Income Tax (Appeals) cancelling the order of the Assessing Officer under Section 154 levying interest under Section 234B of Rs.9,51,551/-?
>
> 2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not holding that the Assessing Officer had not levied any interest on the enhancement on account of the application of the Taxation Laws (Amendment) Act and the levy of interest under Section 234B was confined only to the enhancement of income consequent to set off of negative profit on account of manufacturing activity against trading profit and export incentive which in anyway had to be done even without applying the amendment provisions, on the basis of the Supreme Court's decision in the case of IPCA Laboratories reported in 266 ITR 521?"

2. Circular instruction issued by the Central Board of Direct Taxes No.21/2015, dated 10.12.2015 stipulates that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.20 lakhs. In the instant case, the tax effect is less than the monetary limit imposed and the appeal is hence, dismissed as not pressed, preserving the substantial questions of law for determination in an appropriate case. No costs.

-s/d-
Assistant Registrar(CSII)

True Copy

Sub-Assistant Registrar

msr

To

1.The Income Tax Appellate Tribunal
"A"bench, Chennai-34

2.The Commissioner of Income Tax (A)-III
Chennai

3.The Assistant Commissioner of Income Tax
Company Circle I(1) Chennai

+1 cc to Mr.T.N.Seetharaman Advocate sr 10014
+1 cc to Mr.T.Ravikumar Advocate sr 9356

br(co)

aa18/04/2017