IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case (Appeal) Nos.456 and 457 of 2007

Commissioner of Income Tax,
Chennai. ... Appellant in both the Appeals

-vs-

M/s.Kalpana Agencies,
"Orient Chamber" III Floor,
73, Armenian Street,
Chennai-600 001. ... Respondent in both the Appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal Chennai 'A' Bench, Chennai, dated 28.03.2006 in I.T.A.Nos.158 and 280/Mds/2003 for the assessment years 1999-2000 and 2000-2001 respectively.

For Appellant (in both the Appeals) : Mr.M.Swaminathan, Senior Standing Counsel and Ms.V.Pushpa, Junior Standing Counsel

For Respondent (in both the Appeals) : No Appearance

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COMMON JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

These appeals, by the appellant/Revenue, are directed against the common order dated 28.03.2006, passed by the Income Tax Appellate Tribunal Chennai 'A' Bench, in I.T.A.Nos.158 and 280/Mds/2003 for the assessment years 1999-2000 and 2000-2001 respectively.

2.Heard Mr.M.Swaminathan, learned Senior Standing Counsel and Ms.V.Pushpa, learned Junior Standing Counsel for the Revenue.

3.The above appeals have been admitted, on 07.06.2007, on the following substantial questions of law:-

> "(i) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessee was covered by item (x) of the Schedule Twelve and was eligible for deduction u/s. 80HHC?
>
> (ii) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the washing, chipping would result in transforming the quartz and feldspar into "processed mineral" under Schedule XII, when the Schedule specifically mentions the said minerals should be pulverized and micronised?

4.We have perused the orders of assessment as well as the orders passed by the Commissioner of Income Tax (Appeals) and we find that the tax effect in these appeals is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue these appeals in view of the low tax effect. Hence, the appeals are dismissed and the substantial questions of law, framed for consideration, are left open. No costs. The Revenue is at liberty to seek for restoration of appeals if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular.

(T.S.S., J.) (V.B.S., J.)

02.11.2018

abr

To

The Income Tax Appellate Tribunal Chennai 'A' Bench.

T.S.Sivagnanam, J.
and
V.Bhavani Subbaroyan, J.

(abr)

T.C.(A) Nos.456 and 457 of 2007

02.11.2018