IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2018

CORAM :

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

Tax Case Appeal No.1775 of 2008

Commissioner of Income Tax,
Chennai. ... Appellant

-vs-

M/s Universal Cold Storage Ltd.,
3/284, Muttukadu Road,
Neelankarai, Chennai – 600 041.
... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'C' Bench, dated 17.04.2008 in ITA No.715/Mds/2006, for the Assessment year 2001-02.

For Appellant : Mr.M.Swaminathan

For respondent : Mr.A.S.Sriraman

JUDGMENT

[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

This appeal by the Revenue is directed against the order passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, dated 17.04.2008 in ITA No.715/Mds/2006, for the Assessment year 2001-02.

*2.*Heard Mr.M.Swaminathan, learned Counsel for the Revenue and Mr.A.S.Sriraman counsel for the respondent.

3.The following Substantial Question of Law has been raised in the Tax Case Appeal:

> *"Whether on the facts and circumstances of the case, the Tribunal was right in holding that the expenses incurred towards substantial modernization of the factory can be treated as current repairs u/sec. 31(1) of the Income Tax Act?"*

4.We have perused the order of Assessment as well as the Order passed by the Commissioner of Income Tax, and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2008, 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 this Appeal in view of the low tax effect. Hence, the Appeal is dismissed and the Substantial Question of Law, framed for consideration, is left open. No costs.

[T.S.S., J.] & [V.B.S., J.]

mrm **11.10.2018**

To

1.The Income Tax Appellate Tribunal Madras 'C' Bench.

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

mrm

T.C.A.No.1775 of 2008

11.10.2018