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.1811 of 2008

Commissioner of Income Tax,
Central I, Chennai. ... Appellant/Respondent

-vs-

M/s Tulsan NEC Limited,
Apex Plaza, 1st Floor,
No. 3, Nungambakkam High Road,
Chennai - 600 034. ... Respondent/Appellant

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 16.05.2008 in ITA No.1658/Mds/2007, for the Assessment year 2003-04. Appeal against the order passed by the Commissioner of Income Tax (appeals) XII, Chennai dated 31.01.2007 made in I.T.A. No. 189, 190 & 193/06-07 G.I.No./P.A. No.AABCT 3720E for the assessment year 2002-2003, 2003-2004 and 2004-2005 and against the order passed by the Assistant Commissioner of Income Tax, Company Circle III(2) Chennai 34 dated 31.03.2006 and made in 32134-T AABCT 3720E for the assessment year 2003-2004.

For Appellant :Mr.M.Swaminathan

For respondent : Mr.Sandeep Bagnar for V.S.Jayakumar

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 16.05.2008 in ITA No.1658/Mds/2007, for the Assessment year 2003-04.

2.Heard Mr.M.Swaminathan, learned Counsel for the Revenue and Mr.Sandeep Bagnar for V.S.Jayakumar counsel for the respondent.

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3.This appeal was admitted on 27.11.2008 and the following Substantial Questions of Law has been raised in the Tax Case Appeal:

> "1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that interest of Rs. 47,13,216/- paid on the loans borrowed for construction of new factory and installation of new machinery was allowable as deduction u/s.36(1)(iii) of the Income Tax Act?
>
> 2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in applying the decision of the Supreme Court in 298 ITR 194 without observing that facts obtaining in that case was different from those in the assessee's case and in not considering the decision of the Supreme Court in 98 ITR 167 and other similar decisions which were applicable to the facts of the assessee's case?"

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 Questions of Law, framed for consideration, are left open. No costs.

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-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

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To

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

2. The Assistant Commissioner of Income Tax
   Company Circle III(2) Chennai 34.

3. The Commissioner of Income Tax(Appeals)XII
   121, Mahatma Gandhi Raod
   Chennai 34.

4. The Assistant Registrar
   Income Tax Appellate Tribunal
   III rd floor, Rajaji Bhavan
   Besant Nagar, Chennai 90.

+1 CC to Mr.S. Swaminathan, advocate sr 70618.
+1 CC to Mr.V.S. Jayakumar, Advocate sr 70865

T.C.A.No.1811 of 2008

SR(CO)
SP(12/11/2018)

सत्यमेव जयते
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