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.2105 and 2106 of 2008

The Commissioner of Income-Tax,
Coimbatore. ... Appellant in both the Appeals

-vs-

M/s.Ambar Agro Polymer & Chemical P Ltd.,
1009, Mettupalayam Road,
Coimbatore-641 002. ... 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 Bench "SMC-III(D)", Chennai, dated 05.12.2005 in I.T.A.Nos.1636 and 1637/Mds/2005 for the assessment years 1992-93 and 1993-94 respectively.

For Appellant (in both the Appeals) : Mr.Karthik Ranganathan Senior 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 05.12.2005, passed by the Income Tax Appellate Tribunal Bench "SMC-III(D)", Chennai, in I.T.A.Nos.1636 and 1637/Mds/2005 for the assessment years 1992-93 and 1993-94 respectively.

2.Heard Mr.Karthik Ranganathan, learned Senior Standing Counsel for the Revenue.

3.The above appeals have been admitted, on 06.01.2009, on the following substantial question of law:-

> "(i) Whether the payment under section 194A could be treated as overdue charges when the payment were credited in the books of accounts of the assessee as interest for the delayed payment for purchase of goods with reference to the definition contained under Section 228(A)?"

4.We have perused the orders of assessment as well as the order 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 question of law, framed for consideration, is left open. 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. No costs.

(T.S.S., J.) (V.B.S., J.)
02.11.2018

abr

To
The Income Tax Appellate Tribunal Bench "SMC-III(D)", Chennai.

T.S.Sivagnanam, J.
and

V.Bhavani Subbaroyan, J.

(abr)

T.C.(A) Nos.2105 and 2106 of 2008

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