IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Tax Case (Appeal) Nos.18 to 20 of 2009

The Commissioner of Income-tax,
Coimbatore. ... Appellant in all the Appeals

-vs-

M/s.S.K.M.Animal Feeds & Foods (India) Ltd.,
Nanjai Uthukuli, Modakurichi, Erode. ... Respondent in all the Appeals

Tax Case (Appeals) filed under Section 260-A of the Income Tax Act, 1961 against the common order of the Income-tax Appellate Tribunal, 'D' Bench, Chennai, dated 20.01.2006 in I.T.A.Nos.811/Mds/2002, and ITA.Nos.1722 and 1723/Mds/2003 for the assessment years 1998-99, 1999-2000 and 1998-99 respectively against order of the Commissioner of Income Tax (Appeals)-I, Coimbatore dated 14.07.2003 in ITA.Nos.260/02-03 and 261/02-03 for the Assessment Year 1998-1999, and 1999-2000 and 1998-1999.

For Appellant (in all the Appeals) : Ms.K.G.Usha Rani, Junior Standing Counsel for Mr.T.R.Senthil Kumar, Senior Standing Counsel

For Respondent (in all the Appeals) : Ms.Sree Lakshmi Valli for N.Muthu Kumar.

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

These appeals, by the appellant/Revenue, are directed against the common order passed by the Income-tax Appellate Tribunal, 'D' Bench, Chennai, dated 20.01.2006, in I.T.A.Nos.811, 1722 and 1723/Mds/2002 for the assessment years 1998-99, 1999-2000 and 1998-99 respectively.

2.Heard Ms.K.G.Usha Rani, learned Junior Standing Counsel for Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the appellant; and Ms.Sree Lakshmi Valli, learned counsel for the respondent.

3.The above appeals have been admitted, on 25.02.2009, on the following substantial question of law:-

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that, the assessee is entitled for deduction under Section 80-I of the Income Tax Act, even though Unit-II was not a new uni and only a expansion of Unit-I by installing one Pulverizer and Bucket Elevator to increase the grinding capacity of the earlier Unit?"

4.We have perused the orders of assessment as well as the orders passed by the Commissioner of Income Tax (Appeals)-I 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.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Income-tax Appellate Tribunal,
   'D' Bench, Chennai.

2. The Commissioner of Income Tax, (Appeals)-I,
Coimbatore.

+1cc to Mr.N.Muthu Kumar, Advocate, S.R.No.77800
+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.78120

T.C.(A) Nos.18 to 20 of 2009

NMI(Co)
CS/28/01/2019