IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2018

CORAM

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

Tax Case (Appeal) No.271 of 2009

The Commissioner of Income-tax,
Chennai. ... Appellant

-vs-

M/s.Cauvery Enterprises,
No.8, 2nd Street,
Ganapathy Colony, Chennai-600 086. ... Respondent

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income-tax Appellate Tribunal, "A" Bench, Chennai, dated 20.03.2008, passed in I.T.A.No.129/Mds/2007 for the assessment year 2003-04, against the order of Commissioner of Income Tax (Appeals)XII Chennai-34 dated 30.08.2006 passed in ITA No.53/05-06 for the assessment year 2003-04 against the order of the Assistant Commissioner of Income Tax, Circle XV Chennai daed 31.03.06 passed in G.I.R.No./P.A.No.AAAFC3959J for the assessment year 2003-2004.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel

For Respondent : Mr.M.P.Senthil Kumar

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

This appeal by the appellant/Revenue is directed against the order of the Income-tax Appellate Tribunal, "A" Bench, Chennai, dated 20.03.2008, passed in I.T.A.No.129/Mds/2007 for the assessment year 2003-04.

2.Heard Mr.M.Swaminathan, learned Senior Standing Counsel for the appellant/Revenue and Mr.M.P.Senthil Kumar, learned counsel for the respondent/assessee.

3.This Appeal has been admitted on 24.04.2009, on the following substantial questions of law:-

"(i) Whether on the facts and circumstances of the case, the Tribunal is right in allowing a deduction under Section 10-B of the Income Tax Act?

(ii) Whether deduction under Section 10-B is available to the assessee firm which was reconstituted from proprietary concern to Cauvery Enterprises?"

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 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 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. The Revenue is at liberty to seek for restoration of appeal 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.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

abr
To

1. The Income-tax Appellate Tribunal, "A" Bench, Chennai.

2. The Commissioner of Income Tax, Chennai.

3. The Commissioner of Income Tax (Appeals) XII, Chennai-34

4. The Assistant Commissioner of Income Tax, Circle XV, Chennai

+1cc to Mr.Philip George, Advocate SR.No.77489

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VBA(CO)

GMY(05/12/2018)