IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2018

CORAM :

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

Tax Case Appeal Nos.293 to 297 of 2009

The Commissioner of Income Tax
Coimbatore.
...Appellant in all Appeals

-vs-

M/s.Premier Fine Yarns Pvt. Ltd.,
No.244, A.T.D. Street
Race Course, Coimbatore - 641 018.
...Respondent in all Appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the orders of the Income Tax Appellate Tribunal Madras 'D' Bench, dated 17.02.2006 in ITA Nos.2570 to 2574/Mds/2005, for the Assessment years 2000-01 to 2004-05 respectively.

For Appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel
(in all the appeals)

For Respondent : Mr.R.Vijayaraghavan
(in all the appeals)

COMMON JUDGMENT

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

These Appeals by the Revenue are filed u/sec. 260A of the Income Tax Act, 1961 against the orders of the Income Tax Appellate Tribunal Madras 'D' Bench, dated 17.02.2006 in ITA Nos.2570 to 2574/Mds/2005, for the Assessment years 2000-01 to 2004-05 respectively, raising two Substantial Questions of Law. When the appeals were taken up for admission, the Hon'ble Division Bench of this Court by order dated 09.06.2009 dismissed Substantial Question of Law No. 1 by following the decision of the Hon'ble Supreme Court in the case of Commissioner of Income Tax Vs. Laxmi Machine Works 290 [ITR 667] (SC). Thus, the second Substantial Question of Law alone was admitted, which reads as follows:

> "Whether the interest which are received from Bank deposits and is not an income derived from the business activities of exports would be entitled for deduction under Section 80HHC?"

2.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.R.Vijayaraghavan, learned Counsel for the Respondent/assessee.

3.First before examining as to whether the Substantial Question of Law is required to be answered, we are called upon to see whether these appeals are maintainable and whether they are hit by Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, wherein the monetary limit has been fixed to enable the Revenue to pursue the appeals before various Forums. The monetary limit fixed for the High Courts is Rs.50,00,000/-.

4.On a perusal of the assessment orders for the subject assessment years 2000-01 to 2004-05, the issue relating to interest received from bank deposits arises only in the assessment year 2000-01. This is evident from the assessment order dated 25.02.2004. This issue does not arise with regard to the remaining assessment years viz., 2001-02 to 2004-05. Even for the assessment year 2000-01, the addition which has been made by the Assessing Officer is far less than the threshold limit as it is only Rs.3,49,867/-.

5.In the light of the above, the Revenue cannot pursue these Appeals as it is hit by the monetary limit fixed in the Circular. However, we make it clear that the Revenue is at liberty to seek for restoration of these appeals if the exceptional conditions stipulated in the Circular are not fulfilled. Hence, the Appeals are dismissed and the Substantial Question of Law, framed for consideration, is left open. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

mrm

To

1. The Income Tax Appellate Tribunal Madras 'D' Bench,
   Chennai.

2. The Assistant Commissioner of Income Tax,
   Company Circle (1) Coimbatore.

3. The Commissioner of Income Tax Coimbatore.

+ 1 cc to M/s. T.R. Senthilkumar, Advocate Sr.76673
+ 1 cc to M/s. Subbaraya Aiyar, Advocate Sr.76976

T.C.A.Nos.293 to 297 of 2009

EU(12/12/2018)