IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.11.2018
CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case Appeal No.316 of 2009

The Commissioner of Income Tax
Coimbatore. Appellant

Vs.

M/s.Rajarathna Mills Ltd.,
No.250, Race Course,
Coimbatore 641 018. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 25.7.2005 made in C.O.No.87/Mds/2002 in ITA No.1254/Mds/2002. And against the order of Commissioner of Income Tax (Appeals)-I, Coimbatore made in IT(Appeal)No.181/98-99/202/99-2000 & 54/00-01, dated 29.04.2002 and against the Assessment order of Joint Commissioner of Income Tax, Special, Range-II, Coimbatore in made in PA.No./G.I.No.CN.4701/SR-II/07-98/ Coimbatore dated 24.03.2000 assessment year 1997-98 and against the Assessment order of The Joint Commissioner of Income Tax, Special Range-II, Coimbatore in PA.No.CN.47001 dated 23.03.1998 and arising out of the Assessment Order of Deputy Commissioner of Income Tax-Special Range II, Coimbatore dated 23.03.1998 in PAN/GIR.No.CN.4701.

For Appellant : Mr.T.R.Senthilkumar
Senior Standing Counsel
For respondent : Ms.Lakshmi Sriram

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 25.7.2005 made in C.O.No.87/Mds/2002 in ITA No.1254/Mds/2002, by raising the following substantial questions of law:

"(i) In the light of the decision of the Honourable Supreme Court reported in (2005) 278 ITR

546, Britannia Industries Limited v. CIT, whether or not under section 37(4) of the Income Tax Act the hiring charges/rent paid for Guest House, would amount to maintenance of a residential accommodation in the nature of Guest House?

(ii) Whether or not the interest income is to be excluded from the profits of the business as per explanation (BAA) to Section 80 HHC in the light of the decision of the Hon'ble Supreme Court reported in (2007) 294 ITR 328, CIT v. Ramarajulu Surgical Cotton Mills?

(iii) Whether bringing into existence of a new asset or obtaining a new advantage would amount to revenue expenditure or not?"

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is less than the monetary limit imposed and therefore, the appeal is dismissed as not pressed, preserving the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

ssk.
To
1. The Income Tax Appeals Tribunal,
'D' Bench, Chennai.
2. The Commissioner of Income Tax Appeals I,
Coimbatore.
3. The Joint Commissioner of Income Tax,
Special Range II, Coimbatore.
4. The Deputy Commissioner of Income Tax,
Special Range II, Coimbatore.

+1cc to Ms.Lakshmi Sriram Advocate, S.R.No.81202

TCA No.316 of 2009

RR(CO)
CS/04/02/2019