IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3.12.2018
CORAM

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

Tax Case Appeal No.455 of 2009

The Commissioner of Income Tax-1,
Coimbatore. Appellant / Appellant

Vs.

M/s.Sri Kannapiran Mills Ltd.,
1 Sowripalayam, Coimbatore.
(PAN No.AACCS9186Q) Respondent/ Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai, dated 28.11.2008 made in ITA No.743/Mds/2007 against the order dated 12.01.2007 and made in Appeal No.125/06-07 Passed by the commissioner of Income Tax (Appeals)-I,Coimbatore against the order Panel Under Section 143(3) RW sec 254 of the IT ACT ,1961 for A.Y.1997-98 by the Assistant Commisioner of Income Tax,company Circle I(1), Coimbatore -18, dated 30.03.2006.

For Appellant : Mr.T.R.Senthilkumar
Senior Standing Counsel
For respondent : Mr.J.Balachander

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 'A' Bench, Chennai, dated 28.11.2008 made in ITA No.743/Mds/2007, by raising the following substantial question of law:

> "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the conversion charges has to be excluded in computing the income of the assessee, even though under clause (baa) of explanation to Section 80HHC in the adjusted book profits for computation of deduction as per the Income Tax Act, 1961?"

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 question of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ssk.

To

1.The commissioner of Income Tax-I,Coimbatore.

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

3. The Assistant Commisioner of Income Tax,company Circle I (1), Coimbatore -18

+1cc to Mr. J.Balachander, Advocate SR.No. 82495
+1cc to Mr. T.R.Senthilkumar, Advocate SR.No. 83271

TCA No.455 of 2009

ASK(08/01/2019)