IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2018

CORAM

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

Tax Case (Appeal) No.624 of 2009

The Commissioner of Income Tax
Coimbatore.
.... Appellant

Vs.

M/s.Shiva Texyam Ltd.,
(Formerly known as Annamalai Finance Ltd.),
252, Mettupalayam Road,
Coimbatore - 641 043.
.... 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 09.01.2009 made in ITA.No.663/(Mds)/2007 for the assessment year 2001-02, against the proceedings of the Commissioner of Income Tax-I, Coimbatore in C.No.120(14)/04-05/CIT I/CBE dated 12/1/2006 against the order of the Assistant Commissioner of Income Tax Company Circle-I(2), Coimbatore in PAN/GIR.No.AABCA6617M/A-23 dated 19/3/2004 for the Assessment Year 2001-2002.

For Appellant : Mr.T.R.Senthilkumar
Sr.Standing Counsel
assisted by
Mrs.K.G.Usharani

For Respondent : Mr.R.Venkatanarayanan
for M/s.Subbaraya Aiyar Padmanabhan

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

09.01.2009 made in ITA.No.663/(Mds)/2007 for the assessment year 2001-02 by raising the following substantial question of law:

" Whether on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in quashing the order passed under section 263 of the Income Tax Act, 1961, even though the assessing officer without application of mind passed an order would be erroneous if it is based on an incorrect assumption of facts or incorrect application of law or based on no insufficient materials?"

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 said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial question of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax-I,
67A Race Course Road,
Coimbatore-18.

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

+1cc to M/S.Subbaraya Aiyar, Advocate Sr.89598
+1cc to Mr.T.R.Senthilkumar, Advocate Sr.89267

TC (A) No.624 of 2009

rk[co]
srg 25/01/2019