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

T.C.(A).No.700 of 2009

The Commissioner of Income Tax,
Coimbatore. .. Appellant

Vs

M/s. Super Spinning Mills Limited,
737, Green Fields, Puliakulam Road,
Coimbatore-641 045.
PAN AADCS0672G .. Respondent

Prayer : Tax Case (Appeal) is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'A' Bench, dated 17.09.2008 passed in ITA No.910/Mds/2007 for the assessment year 1995-96, and against the Commissioner of Income Tax (Appeals)-I, Coimbatore, and made in 259/2006-07 dated 13/02/2007 and against the Assistant Commissioner of Income Tax, Circle -1(2), Coimbatore, PANo.AADC-50672G dated 20/096/2006 are against the Income Tax PAN No.AADCS0672G/S-40/ on Assessment Year 1995-96.

For Appellant : Ms.S.Premalatha
for Mr.M.Swaminathan

For Respondent : Mr.A.S.Sriraman
for Mr.S.Sridhar

JUDGMENT

(Judgment of the Court was delivered by

DR.VINEET KOTHARI, J.)

Heard the learned Counsel for the appellant.

2. The Revenue has preferred this appeal challenging the order passed by the Income Tax Appellate Tribunal Chennai 'A' Bench, dated 17.09.2008 passed in ITA No.910/Mds/2007 for the assessment year 1995-96.

3. The above appeal has been admitted on 28.07.2009 on 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 interest under Section 234-D cannot be levied for the period prior to 1.6.2003 is valid?''

4. It may not be necessary for us to answer the above substantial question of law, as the monetary limit in this appeal is lesser than the amount fixed by the circular instructions issued by the Central Board of Direct Taxes in Circular No.3/2018 dated 11.07.2018. The said circular covers the issue regarding chargeability of interest also. In paragraph 4 of the said Circular, it has been stated that in case the chargeability of interest is the issue under dispute, the amount interested shall be the tax effect. Since the quantum of interest charged under Section 234-D of the Income Tax Act in the present case is being Rs.13,61,223/- which is less than Rs.50,00,000/- as stated in Circular No.3/2018 dated 11.07.2018, the Tax Case (Appeal) is liable to be dismissed.

5. Accordingly, the present appeal is dismissed. No costs. The substantial question of law is left open for consideration in an appropriate case.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal, Chennai 'A' Bench

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

+1cc to M/S.T.R.Senthilkumar, Advocate Sr.81301
+1cc to M/S.S.Sridhar, Advocate Sr.82343

T.C.(A).No.700 of 2009

rr[co]
srg 21/12/2018