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.941 of 2009

The Commissioner of Income Tax,
Coimbatore. Appellant/Respondent

Vs.

M/s.Sakthi Sugars Ltd.,
180 Race Course Road,
Coimbatore-18. Respondent/Appellant

Tax Case Appeal filed under Sec. 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 1.2.2008 in ITA No.828/Mds/2003, against the proceedings of the Assistant Commissioner of Income Tax, Company Circle1(1), Coimbatore, dated 22/03/2004 made in No.CV-0162/CO.I(1) CBE/03-04, and against the order passed by the Commissioner of Income-Tax-1, Coimbatore, dated 25/03/2003 made in C.No.120(9)/02-03/CTI/CBE.

For Appellant : Ms.K.G.Usharani, for
Mr.T.R.Senthilkumar,
Senior Standing Counsel

For Respondent : Mr.Venkatanarayanan for
Mr.Subbaraya Aiyar

JUDGMENT

(Judgment of the court was delivered by DR.ANITA SUMANTH,J.)

The Tax Case (Appeal) relates to Assessment Year 1998-1999 and has been admitted on the following substantial question of law:

> "Whether, on the facts and in the circumstances of the case, the Tribunal was right in annulling the revision order passed under Section 263 of the Income Tax Act?"

2. Heard Ms.V.J.Usharani, learned counsel for Mr.T.R.Senthilkumar, learned Senior Standing Counsel for the Revenue and Mr.Venkataraghavan, learned counsel for Mr.Subbaraya Ayyar Padmanabhan for the assessee.

3. Learned counsel appearing for the Revenue fairly concedes that the question referred is covered against the Revenue and in favour of the assessee by judgments of the Supreme Court in the case of Malabar Industrial Corporation Limited v. CIT (243 ITR 83) and Commissioner of Income Tax v. Max India Limited ((2007) 295 ITR 282) on the question of exercise of jurisdiction under Section 263 of the Income Tax Act.

4. She also brings to the notice of the court that on merits, the question of allowability of prior period expenses in the context of a revision under Section 263 of the Income Tax Act has been specifically considered by a Division Bench of this court in Tamil Nadu Cements Corporation Limited v. Joint Commissioner of Income Tax ((2012) 349 ITR 58) and held in favour of the assessee.

4. In the light of the above, the question is answered against the Revenue and in favour of the assessee. The Tax Case (Appeal) is dismissed. No order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssk.

1.The Income Tax Appellate Tribunal,
Madras "D" Branch,
Chennai.

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

3.The Commissioner of Income Tax-1,
Coimbatore.

+1cc to Mr.T.R.Senthil Kumar, Advocate sr.no.83216
+1cc to Mr.Subbaraya Aiyar, Advocate sr.no.83221

T.C.A.No.941 of 2009

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