IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Tax Case Appeal No.468 of 2011

The Commissioner of Income Tax-I,
Chennai.

...Appellant

-vs-

M/s.Ucal Fuel Systems Ltd.,
Raheja Towers, Delta Wing,
Unit:705, 177, Anna Salai,
Chennai - 600 002.

...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'B' Bench, dated 21.04.2011 in ITA No.1487/Mds/2010, for the Assessment year 2005-06. Appeal against the order passed by the Commissioner of Income Tax, (Appeals) - III, Chennai, dated 23/06/2010 in ITA.No.380/07-08/A-III, for the Assessment Year 2005-2006, against the order passed by the Additional Commissioner of Income Tax company Range III, Chennai - 34, dated 14.12.2007 in GIR No.AAACV0514K (33002- U) for the Assessment Year 2005-2006.

For Appellant : M/s.V.Pushpa

For Respondent : Mr.R.Venkata Narayanan for
M/s.Subbaraya Aiyar Padmanaban

JUDGMENT

[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

This Tax Case Appeal is filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'B' Bench, dated 21.04.2011 in ITA No.1487/Mds/2010, for the Assessment year 2005-06.

2.Heard M/s.V.Pushpa, learned Counsel for the Revenue and Mr.R.Venkata Narayanan, learned Counsel for the assessee.

3.This Appeal has been admitted on 10.11.2011, on the following Substantial Question of Law:

> "Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the carried forward loss and unabsorbed depreciation of the eligible unit for the earlier years could not be notionally carried forward and set off against the income of the said unit before working out the deduction u/Sec.80-IA of the Act ignoring the clear provisions of Sub-Section (5) of Section 80-IA?"

4.We have perused the order of Assessment as well as the Order passed by the Commissioner of Income Tax and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue this Appeal in view of the low tax effect. Hence, the Appeal is dismissed and the Substantial Question of Law, framed for consideration, is left open. No costs. The Revenue is at liberty to seek for restoration of appeal, if at a later point of time, it is found that the tax effect is above the threshold limit.

mrm/abr

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1. The Income Tax Appellate Tribunal,
   Chennai 'B' Bench.

2. The Commissioner,
   Income Tax -I, Chennai.

3. The Commissioner of Income Tax (Appeals - III)
   Chennai.

4. The Additional Commissioner of Income Tax
   Company Range- III,
   Chennai - 34.

+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No.84139
+1cc to M/s.M. Swaminathan, Advocate, S.R.No.83443

T.C.A.No.468/2011

SSI(CO)
KAK (07/01/2019)