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.470 of 2011

The Commissioner of Income Tax,
Chennai.

...Appellant

-vs-

M/s.Rane Brake Linings Ltd,
"Maithri", 132, Cathedral Road,
Chennai - 600 086.

...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 21.04.2011 in ITA No. 104/Mds/2009, for the Assessment year 2003-04. against the Order of the Income Tax Officer (OSD) Company circle - V (3), Chennai - 34 dated 27/03/2006 made in PA/GIR.No. AAACRI703L/53036-R against the Order of the Commissioner of Income Tax (Appeals) - V, Chennai-34, dated 04/06/2008 made in ITA.No. 173/2006-07 4515/2006-07.

For Appellant : Mrs.R.Hemalatha
Senior Standing Counsel

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

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 Madras 'A' Bench, Chennai dated 21.04.2011 in ITA No. 104/Mds/2009, for the Assessment year 2003-04.

2.Heard Mrs.R.Hemalatha, learned Senior Standing Counsel for the Revenue and Mr.R.Venkata Narayanan, learned Counsel for the assessee.

3.This Appeal has been admitted on 02.01.2012, on the following Substantial Question of Law:

> "Whether on the facts and circumstances of the case, the Tribunal was right in holding that the deduction under Section 80HHC has to be allowed without allowing deduction under Section 80-IB?"

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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrm/abr

To

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

2. The Commissioner of Income Tax (Appeals) - V,
121, Mahatma Gandhi road,
Chennai 34.

3. The Income Tax Officer(OSD),
Company Circle V (3),
Chennai 34.

+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No. 84138
+1cc to Mr.T.Ravi Kumar, Advocate, S.R.No. 83860

T.C.A.No.470 of 2011

NM(CO)
GN(02/01/2019)