IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2018

CORAM

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

Tax Case (Appeal) No.48 of 2011

Commissioner of Income Tax-I,
Chennai. ... Appellant

-vs-

M/s.Arvind Remedies Ltd.,
No.190, P.H.Road,
Chennai-600 084. ... Respondent

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income-tax Appellate Tribunal Bench 'C' Chennai, dated 28.09.2010, in I.T.A.No.688/Mds/2010 for the assessment year 2005-06. against the order of the Assistant Commissioner of Income Tax, Company Circle 1(1), Chennai, dated 29.11.2007 made in PA/GIR.NO.AACCA7407Q/AX4-003 against the order of the Commissioner of Income Tax, (Appeals)-III, Chennai, dated 10.02.2010 made in ITA.No.398/07-08/AIII.

For Appellant : Mrs.R.Hemalatha,
Senior Standing Counsel

For Respondent : Mr.A.S.Sriraman

JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal, by the Revenue, is directed against the order of the Income-tax Appellate Tribunal Bench 'C' Chennai, dated 28.09.2010, in I.T.A.No.688/Mds/2010 for the assessment year 2005-06.

2. The above appeal has been admitted, on 01.03.2011, on the following substantial question of law:-

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled to higher rate of 15% depreciation on the building which was used by the assessee only for storing apparatus, equipments and tools, on the ground that the building constituted a 'plant'?"

3. Heard Mrs.R.Hemalatha, learned Senior Standing Counsel for the appellant and Mr.A.S.Sriraman, learned counsel for the respondent.

4. We have perused the order of assessment as well as the order passed by the Commissioner of Income Tax (Appeals)-III 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, this Tax Case 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 or to fall under the exceptional clauses mentioned in the Circular.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Income-tax Appellate Tribunal Bench 'C' Chennai.
2. The Commissioner of Income Tax(Appeals)-III, Chennai.
3. The Assistant Commissioner of Income Tax,
   Company Circle 1(1), Chennai.

+1cc to Mr.T.Rajkumar, Advocate, S.R.No.80606

T.C.(A) No.48 of 2011

NM(CO)
CS/03/01/2019