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.50 of 2011

Commissioner of Income-tax-III,
Coimbatore. ... Appellant / Respondent

-vs-

M/s.Everwin Export Corporation,
17/5, Puthu Thottam, Kumarapuram,
Tiruppur. (PAN NO.AAAFE8073H) ... Respondent / Appellant

Prayer: Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Judicial Member, Income-tax Appellate Tribunal, "A" Bench, Chennai, dated 17.09.2010, passed in I.T.A.No.666/Mds/2008 for the assessment year 2003-04, and aginst the order of the Commissioner of Income Tax (Appeals)-II, Coimbatore, dated 30.01.2018, made in Income Tax Appeal No.326C/06-07, for the assessment year 2003-2004.

For Appellant : M/s.K.G.Usha Rani

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JUDGMENT

(Judgment was delivered by T.S.Sivagnanam, J.)

This appeal by the appellant/Revenue is directed against the order of the Income-tax Appellate Tribunal, "A" Bench, Chennai, dated 17.09.2010, passed in I.T.A.No.666/Mds/2008 for the assessment year 2003-04.



2.Heard M/s.K.G.Usha Rani, learned Senior Standing Counsel for the appellant/Revenue.

3.This Appeal has been admitted on 23.02.2011, 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 deleting the

levy of penalty under Section 271(1)(c) of the Income Tax Act, 1961, even though the assessee filed the revised return ignoring the Long Term Capital Loss which it claimed in the original return, which amounts to furnishing inaccurate particulars under Section 271(1)(c) of the Act?"

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 or to fall under the exceptional clauses mentioned in the Circular.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cse

To

1) The Judicial Member,
   Income-tax Appellate Tribunal, "A" Bench,
   Chennai.

2) The Commissioner of Income Tax (Appeals)-II,
   Coimbatore.

+one cc to M/s.T.R.Senthilkumar, Advocate SR No.80758

Tax Case (Appeal) No.50 of 2011

mr(co)
ssm(19/12/18)