IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2018

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

Tax Case (Appeal) Nos.71 and 72 of 2011

Commissioner of Income Tax,
Chennai. ... Appellant in both the Appeals

-vs-

M/s.Shardlow India Limited, Huzur Gardens,
Madhavaram High Court, Sembium,
Chennai - 600 011. ... Respondent in both the Appeals

Tax Case (Appeals) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income-tax Appellate Tribunal 'A' Bench, Chennai, dated 11.06.2010 in I.T.A.No.1492/Chny/2009 and I.T.A.No.1493/Chny/2009 for the assessment year 1992-93 and 1994-95, respectively filed

against the Assessment order dated 20.01.2009 made in ITA No.24 & 25/07-08 passed by the Commissioner of Income Tax (Appeals)-V, 121, MG Road, Chennai-600 034, against the Assessment Order for the Assessment Year 1992-93 dated 15.12.1994 PAN/GIR No.47004-CN-7423/8S passed by the Deputy Commissioner of Income Tax, Special Range-I, Madras

against the Assessment Order dated 20.01.09 made in ITA 24 & 25/07-08 PAN/GIR No.AAACS5048P passed by the Commissioner of Income Tax (Appeals)-V, 121, MG Road, Chennai-34, against the Assessment Order for the Assessment Year 1994-95 dated 28.10.2005 made in by the Income Tax Officer A(OSD), Company Circle VI(20), Chennai.

For Appellant (in both the Appeals) : M/s,K.G.Usharani, Standing Counsel

For Respondent (in both the Appeals) : Mr.R.Venkatanarayanan for M/s.Subbaraya Aiyar Padmanabhan

COMMON JUDGMENT

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

These appeals, by the appellant/Revenue, are directed against the order of the Income-tax Appellate Tribunal 'A' Bench, Chennai, dated 11.06.2010 in I.T.A.No.1492/Chny/2009 and I.T.A.No.1493/Chny/2009 for the assessment year 1992-93 and 1994-95.

2.Heard M/s.K.G.Usharani, learned Standing Counsel for the appellant and Mr.R.Venkatanarayanan, learned counsel for the respondent.

3.The above appeals have been admitted, on 25.02.2011, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Income-tax Tribunal is right in holding that there was no violation of Section 32A(4) even though the cost of purchase of plant and machinery exceeded the investment allowance reserve account?
>
> (ii) Whether on the facts and in the circumstances of the case, the Income-tax Tribunal is right in law in holding that the rectification orders passed by A.O. for assessment years 1992-1993 and 1994-1995 withdrawing the Investments allowance granted earlier was not correct?

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 these appeals 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 these appeals in view of the low tax effect. Hence, the appeals are dismissed and the substantial questions of law, framed for consideration, are left open. The Revenue is at liberty to seek for restoration of appeals 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. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Income-tax Appellate Tribunal 'A' Bench,
Chennai.

2.The Commissioner of Income Tax (Appeals)-V,
121, MG Road, Chennai-34.

3.The Deputy Commissioner of Income Tax,
Special Range-I, Madras.

4.The Income Tax Officer(A(OSD),
Company Circle VI(2),
Chennai.

+1cc to M/S.T.R.Senthilkumar, Advocate Sr.80765
+1cc to M/S.Subbaraya Aiyar, Advocate Sr.80769

T.C.(A) Nos.71 and 72 of 2011

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srg 10/01/2019