IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.8.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TAX CASE APPEAL NOS.459 AND 460 OF 2018
& CMP.NO.9832 OF 2018

Principal Commissioner of Income Tax, Puducherry ...Appellant

Vs

M/s.Kallakurichi Coop. Sugar Mills Ltd., Villupuram ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 30.11.2017 in ITA Nos.2184 and 2187/Mds/2017 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench respectively for the assessment years 2013-14 and 2014-15.

against the order passed by the Commissioner of Income Tax (Appeals) Puducherry in ITA.No.09 & 120/CIT(A) PDY/2016-17 dated 30.06.2017 for the assessment year 2013-14 and 2014-15 as

against the order of the Deputy Commissioner of Income Tax, Villupuram dated 28.12.2016 and 14.03.2016 in PAN/GIR.No.AAAAT3677M in assessment year 2013-14 and 2014-2015.

For Appellant : Mr.T.R.Senthilkumar

COMMON JUDGMENT
(Judgment was delivered by T.S.SIVAGNANAM,J)

Heard the learned counsel for the appellant.

2. The Revenue has preferred these appeals challenging the orders passed by the Income Tax Appellate Tribunal in ITA.Nos.2184 and 2187/Mds/ 2017 for the assessment years 2013-14 and 2014-15 respectively.

3. The above appeals have been filed raising the following substantial question of law :

> "Whether the Appellate Tribunal is right in holding that when the Government of Tamil Nadu was the lender and the assessee was the borrower, any amount payable to a Government, but not actually paid is not hit by Section 43B of the Income Tax Act ? "

4. It may not be necessary for us to answer the above substantial question of law as framed by the Revenue, as the monetary limit in these appeals is lesser than the amount fixed by the circular instructions issued by the Central Board of Direct Taxes. This Court had an occasion to consider the effect of those circulars in TCA.No.395 of 2018 dated 24.7.2018, the relevant portions of which are as follows :

> "4. Further, it is relevant to note that by Circular No.3/2018, dated 11.7.2018, monetary limit has further been increased and appeals be maintainable before the High Courts. It has been increased to Rs.50,00,000/-. Hence, viewed from any angle, this appeal could not have been filed.
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> 5. Thus, by applying the above Circular issued by the CBDT, this appeal ought not to have been filed by the Revenue and hence, for that reason, this tax case appeal is dismissed and the substantial questions of law, framed for consideration, are left open."

5. In the light of the above, the above appeals are dismissed. Consequently, the connected CMP is also dismissed. The substantial question of law is left open for consideration.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

RS

To
1. The Income Tax Appellate Tribunal,
Madras 'C' Bench.

2. The Commissioner of Income Tax Appeal,
DP Thottam, Muthialpet, Puducherry-605 003

3. The Deputy Commissioner of Income Tax,
Villupuram Circle, Villupuram

4. The Principal Commissioner of Income Tax,
Puducherry

5. The Assistant Registrar,
Income Tax Appellate Tribunal,
Besant Nagar, Chennai.

6. The Director, Central Board of Direct
Taxes, New Delhi.

+1cc to Mr.T.R.Senthilkumar , Advocate, S.R.No.54240

TCA.Nos.459 and 460 of 2018
and CMP.No.9832 of 2018

MG(Co)
CS/05/09/18