IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G. RAMESH
AND
THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Tax Case Appeal No.542 of 2018

Principal Commissioner of Income Tax
D.P.Thottam, Muthialpet
Puducherry. .. Appellant/Respondent

Vs.

M/S.Leo Fasteners
Represented by its Partner
A-27A, Industrial Estate
Thattanchavadi
Pondicherry-605 009. .. Respondent /Appellant
PAN:AABFL0652J

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 31.07.2017 in ITA No.508/Mds/2017. Against the order dated 23.01.2017 made in ITA.No.25/CIT(A)-PDY/2015-16 by the Commissioner of Income Tax (Appeals)-Puducherry.

For Appellant : Ms.K.G.Usha Rani
Standing Counsel

J U D G M E N T
(Delivered by Huluvadi G.Ramesh,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai, dated 31.07.2017 in ITA No.508/Mds/2017, by raising the following substantial questions of law:

"(i) Whether the Appellate Tribunal is correct in law in relying upon the Apex Court judgment in the case of CIT vs. Woodward Governor India (P) Ltd. [312 ITR 254] for allowing the foreign exchange fluctuations under Section 37 of the IT Act, when the facts of the present case are different which involves foreign exchange loss on capital account? and

(ii) Whether the Appellate Tribunal is correct in holding that the loss incurred by the assessee in foreign currency fluctuation shall be considered as expenses and the same is to be allowed under Section 37 of the Act, without considering that the assessee obtained the loan for acquiring Wind Mills and the currency was converted into foreign currency to reduce interest, thus the loan amount for acquiring capital asset has to be capitalized including the losses?"

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.07.2018 wherein it is stipulated that appeal shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is less than the monetary limit imposed and therefore, the appeal is dismissed as not pressed, preserving the substantial questions of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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TO

1. The Income Tax Appellate Tribunal,
   Madras.

2. The Commissioner of Income Tax (Appeals),
   Puducherry.

+1cc to Mr. T.R.Senthil Kumar, Advocate, S.R.No. 62724

Tax Case Appeal No.542 of 2018

GJII(CO)
GN(27/09/2018)