IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2018

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

Tax Case Appeal No.615 of 2018

The Commissioner of Income Tax
Chennai. .. Appellant/Respondent

Vs.

M/s.Somayajulu & Co. Ltd.,
II Floor, Mookambika Complex,
4-Lady Desikachary Road,
Mylapore, Chennai 600 004.
.. Respondent/Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 07.10.2016 in I.T.A. No.1115/MDS/2015 the Commissioner of Income Tax (Appeals-15) in ITA.No.473/A-15/13-14 dated :20/02/2015 and against the Income Tax Appellate Tribunal 'B' Bench, Chennai. in ITA.No.1115/mds/2015 Assessment year-2010-11 dated:07/10/2016.

For Appellant : Mr.T.R.Senthil Kumar
Standing Counsel

For Respondent : No appearance

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, 'B' Bench, Chennai, dated 07.10.2016 in ITA No.1115/MDS/2015, by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case the order of the Tribunal is erroneous in law and perverse on facts and right in holding that the assessee had written off the bad debt of Rs.1,03,09,119/- and the assessee is entitled for claim of deduction of bad debt u/s. 36(1)(vii)?

(ii) Whether on the facts and circumstances of the case and in law, the Tribunal was right and justified in allowing the claim of deduction u/s 36(1)(vii) amounting to Rs.1,03,09,119/-, when assessee failed to prove that such debts were written off in the books of account, which is a mandatory condition for allowing such deduction?

(iii) Whether on the facts and circumstances of the case and in law, the Tribunal was correct and justified in reversing the order of CIT(A) giving a categorical finding in para 5.2.3 of his order that assessee did not write off the debt in respective party's account, without assessee furnishing any additional evidence to dislodge such finding and whether the conclusion of the Tribunal is perverse, being contrary to facts on record?

2. When the matter is taken up for admission, the learned Standing Counsel for the Appellant 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 Appeals 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.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.Income Tax Appellate Tribunal,
B Bench, Chennai

2.The Commissioner of Income Tax (Appeals-15)
Nungabakkam.

3.The Assistant Commissioner of Income Tax,
Company circle-VI(3), Chennai

+1cc to Mr.T.R.Senthilkumar, Advocate, S.R.No.58736

T.C.A.No.615 of 2018

RR(CO)
GSP(17/10/2018)