IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

CORAM :

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

Tax Case Appeal No.1382 of 2008

M/s.Neyveli Lignite Corporation Limited,
Corporate Office,
Block-I,
Neyveli-607 801 ... Appellant

-vs-

The Assistant Commissioner of
Income Tax,
Company Circle-IV(4),
Chennai-600 034 ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'C' Bench, dated 04.03.2008 in ITA No.390/Mds/2006 for the Assessment year 2002-03.

For Appellant : Mr.V.Vikram for
Mr.R.Venkatanarayanan

For Respondent : Mrs.R.Hemalatha

J U D G M E N T
[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

This appeal is filed by the assessee against the order passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, dated 04.03.2008, in ITA No.390/Mds/2006, for the Assessment Year 2002-03.

2.Heard Mr.V.Vikram, Learned Counsel for the appellant and Mrs.R.Hemalatha, Learned Counsel for the Revenue.

3.This Appeal has been admitted on 17.11.2008, on the following Substantial Question of Law:

"1.Whether on the facts and circumstances of the case, the Tribunal was right in holding that components of price for sale of electricity fixed on the basis of tax liability should not be taken as part of the transfer price of coal and sale price of electricity in computing the relief under Section 80IA/80IB?.

4.Even at the time of admission, the present appeal was directed to be tagged along with T.C.(A) No.1317 of 2006 and the said appeal was decided, by the Division Bench of this Court, in favour of the assessee, by judgement dated 16.07.2012, reported in (2013) 212 TAXMAN 0318. The gist of the decision in the above case is as follows:

Where under the agreement the tax component is part of the sale of electricity from the Thermal Power Generating Stations and the mere fact that a component of the tariff makes a reference to the tax liability with reference to income streams, does not make such a component as not income to be excluded in considering the relief under Section 80IA/80IB.

5.The Learned Counsel for the Revenue does not dispute the above legal position.

6.Thus, following the decision in the assessee's own case for the earlier Assessment year, this Appeal is allowed and the Substantial Question of Law is answered in favour of the assessee. No costs.

[T.S.S., J.] & [V.B.S., J.]
18.09.2018

msk

Index:Yes/No

Internet:Yes/No

To

1.Income Tax Appellate Tribunal Madras 'C' Bench

2.The Assistant Commissioner of
Income Tax,
Company Circle-IV(4),
Chennai-600 034

T.S.Sivagnanam, J.
and
V.Bhavani Subbaroyan, J.

msk

T.C.A.No.1382 of 2008

18.09.2018