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.1491 of 2008

The Commissioner of Income Tax,
Salem ... Appellant
-vs-

M/s.Thambi Modern Spinning
Mills Ltd.,
Jagirammapalayam,
Salem 636 302 ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'B' Bench, dated 22.09.2004 in ITA No.1787/Mds/1997, for the Assessment year 1994-95.

For Appellant : Mr.V.Vikram &
Mr.R.Venkatanarayana

For Respondent : Mr.M.P.Senthilkumar

JUDGMENT

[Judgement of the Court was delivered by T.S.Sivagnanam, J.]
This appeal by the Revenue is directed against the order passed by the Income Tax Appellate Tribunal, Madras 'B' Bench, dated 22.09.2004 in ITA No.1787/Mds/1997, for the Assessment year 1994-95.

2.Heard Mr.V.Vikram and Mr.R.Venkatanarayana, learned Counsels for the Revenue and

Mr.M.P.Senthilkumar, learned Counsel for the Respondent.

3.This Appeal has been admitted on 24.09.2008, on the following Substantial Question of Law:
"Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled to deduction under Section 801 of the Act for the assessment year 1994-95 even though the assessee had claimed deduction only under Section 80IA in the return of income and during the assessment proceedings and that too without satisfying the conditions relating to the date of commencement of production and furnishing of Audit Certificate in Form 10CCB?

4.We have perused the order of Assessment as well as the Order passed by the Commissioner of Income Tax, under Section 263 of the Income Tax Act, 1961 and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2008, 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 this Appeal in view of the low tax effect. Hence, the Appeal is dismissed and the Substantial Question of Law, framed for consideration, is left open. No costs.

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

msk

To

1.The Income Tax Appellate Tribunal Madras 'B' Bench.

T.S.Sivagnanam, J.

and

V.Bhavani Subbaroyan, J.

msk

T.C.A.No.1491 of 2008

18.09.2018