IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 4/9/2019

C O R A M

The Honourable **Mr.Justice S.Manikumar**
and
The Honourable **Mr.Justice D.Krishnakumar**

Tax Case Appeal No.599 of 2007

The Commissioner of Income Tax
Chennai. ... Appellant

Vs

Sundaram Fasteners Ltd
98 A Radhakrishna Salai
Mylapore
Chennai. ... Respondent

Prayer: Appeal filed against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 28/6/2005 in ITA No.1973/Mds/2000.

For appellant : Mr.J.Narayanasamy
Senior Standing Counsel
for Income Tax.

For respondent : Mr.P.J.Rishikesh

- - - - - -

J U D G M E N T

(Judgment of the Court was made by S.Manikumar,J)

This Appeal has been filed against the order of the Income Tax Appellate Tribunal, 'B' Bench, Madras, dated 28/6/2005.

2. The substantial question of law raised in the instant appeal is:-

> "Whether in the facts and circumstances of the case, the Tribunal was right in holding that the loss pertaining to the software unit had to be reduced from the business profits while computing the deduction under Section 80 HHC by application of Section 80 HH (5)?"

3. Mr.J.Narayanasamy, learned Senior Standing Counsel for Income Tax, placing reliance on Circular No.17 of 2019, dated 8/8/2019, seeks permission for withdrawal of the Tax Case Appeal. Circular No.17 of 2019, reads as follows:-

> "Reference is invited to the Circular No.3 of 2018 dated 11/7/2018 (the circular) of Central Board of Direct Taxes (the Board) and its amendment, dated 20th August, 2018, vide which monetary limits for filing of income tax appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court have been specified. Representation has also been received that an anomaly in the said circular at para 5 may be removed.

2. As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in para 3 of the Circular shall read as follows:-

S.No.	***Appeals/SLPs in Income tax matters***	***Monetary Limit (Rs.)***
1.	Before Appellate Tribunal	50,00,000
2.	Before High Court	1,00,00,000
3.	Before Supreme Court	2,00,00,000

3. Further with a view to provide parity in filing of appeals in scenarios where separate order is passed by higher appellate authorities for each assessment year vis-a-vis where composite order for more than one assessment years is passed, para 5 of the Circular is substituted by the following para:

> "5. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If, in the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. Further, even in the case of composite order of any High Court or appellate authority which involves more than one assessment year and common issues in more than one assessment year, no appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. In case, where a composite order/judgment involves more than one assessee, each assessee shall be dealt with separately."

4. The said modifications shall come into effect from the date of issue of this Circular.
5. The same may be brought to the notice of all concerned.
6. This issues under Section 268 A of the Income – Tax Act, 1961.
7. Hindi version will follow."

4. Placing on record the above submission, **while dismissing the Tax Case Appeal No.599 of 2007, as withdrawn, substantial question of law raised is left open.** No costs.

(S.M.K.,J) (D.K.K.,J)
4th September 2019

mvs.

Index: yes/No

website: Yes/No.

Tax Case Appeal No.599 of 2007

S.MANIKUMAR,J

a n d

D.KRISHNAKUMAR,J

mvs.

Tax Case Appeal No.599 of 2007

4/9/2019