IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6.9.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case No.1364 of 2008

Commissioner of Income Tax
Chennai III ...Appellant

Vs.

National Oxygen Ltd.,
80, (Old No.141) Greams Road,
Chennai 600 006. ... Respondent

Tax Case filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 12.10.2007 made in ITA No.1368/Mds/2006,

against the order dated 23/02/2004 of the Assistant Commissioner of Income Tax, Company Circle IV (4), Chennai against the order of Assistant Commissioner of Income Tax, Company Circle IV (4), Chennai 34 in PAN No.GI No.NA-21/AAACN1483D.

For Appellant : Mr.Karthik Ranganathan, Senior Standing Counsel

For Respondent : No appearance.

J U D G M E N T

(Delivered by DR.VINEET KOTHARI,J)

This Tax Case 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 12.10.2007 made in ITA No.1368/Mds/2006, for the Assessment Year 2000-2001, by raising the following substantial questions of law:

"i) Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the assessing officer could not add back the amount of interest waived by the bank to the book profit, even though the same had been carried to the general reserve?

ii) Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the brought forward losses of the earlier year should be deducted from the book profits, when the assessee had only brought forward unabsorbed depreciation, and did not bring forward any unabsorbed losses at all?

iii) Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the basis of the book profits u/s.115 JA and not on the basis of eligible profits u/s 80IB as per normal computation?"

2. When the matter is taken up for hearing, learned Senior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, 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.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. Commissioner of Income Tax
Chennai III.

2. Income Tax Appellate Tribunal,
'B' Bench, Chennai.

3. The Commissioner of Income Taxe
(Appeals) IV, 121,
Mahathma Gandhi Road, Chennai-34.

4. The Asst. Commissioner of Income Tax,
Company Circle IV(4), Chennai.

rgn[co]
srg 23/10/2019