IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2019

CORAM

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

Tax Case Appeal No. 573 of 2008

Commissioner of Income Tax
Chennai. Appellant / Appellant

Vs.

M/s. Upasana Finance Limited.,
98-A, Dr.Radhakrishnan Road
Mylapore
Chennai – 600 004. Respondent/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, Chennai, dated 20.11.2007 made in ITA No.16/Mds/2007.

For Appellant : Mr.M.Swaminathan
Assisted by
Ms. Pushpa & Ms. Hemalatha

For Respondent : Mr.P.J.Rishikesh

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J U D G M E N T

(Delivered by **DR.VINEET KOTHARI, J**)

The learned counsel for the Appellant/Revenue submits that the present Appeal is covered by a decision of this Court in ***T.C.A.No. 813 etc., batch of 2009 [CIT Vs. M/s. Brakes India Ltd.,]*** decided on 20.03.2019 and the same may be disposed of on the same terms. It had been held as under:-

> *"**3.** The learned counsel for the Appellant/Revenue has submitted before us that the aforesaid view of Hon'ble Supreme Court in Sandvik Asia Limited., cited supra has since been reversed by the Hon'ble Supreme Court in a later decision in the case of **CIT Vs. Gujarat Fluoro Chemicals (2013) 358 ITR 291 (SC)** in which taking note of the said decision of Sandvik Asia Limited as well as the later amendment of law with effect from 01.04.1989 by insertion of Section 244A of the Act, the Hon'ble Supreme Court has clarified that it is only the interest provided for under Section 244A of the Act which may be claimed by the Assessee on the refunds and no other interest can be claimed by the Assessee. Paragraph No. 8*

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of the said Judgement of the Hon'ble Supreme Court is quoted below for ready reference:-

*"**8.** Further it is brought to our notice that the Legislature by the Act No. 4 of 1988 (w.e.f. 01.04.1989) has inserted Section 244A to the Act which provides for interest on refunds under various contingencies. We clarify that it is only that interest provided for under the statute which may be claimed by an assessee from the Revenue and no other interest on such statutory interest."*

4. *In view of the very foundation of the order of the learned Tribunal, namely, the earlier Judgement of the Hon'ble Supreme Court in the case of Sandvik Asia Limited., having been taken away by the later decision of Hon'ble Supreme Court in the case of **CIT Vs. Gujarat Fluoro Chemicals,** we remit the matter back to the learned Tribunal to decide the Appeals again in accordance with law, in view of the later decision of the Hon'ble Supreme Court and the amendment of law.*

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Dr.VINEET KOTHARI, J.
and

C.V.KARTHIKEYAN, J.

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> ***5.*** *Accordingly, the appeals of the Revenue are disposed of without answering the aforesaid question of law. No costs."*

2. The present Tax Case Appeal of the Revenue is disposed of on the same terms. No costs.

(V.K., J.) (C.V.K.,J.)
16.04.2019

Index : Yes/No
Internet : Yes/No

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