IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case Appeal No.639 of 2009

Commissioner of Income Tax
Chennai III ... Appellant

Vs.

M/s.Rane Brake Limings Ltd
"Maithri", 132, Cathedral Road
Chennai 600 086. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai 'D' Bench, Chennai, dated 22.01.2009 made in ITA No.651/Mds/2008 for the Assessment Year 2003-04.

against the order of the Commissioner of Income Tax Chennai III, Chennai, dated 14/01/2008 made in C.No. 3033/14/III/2007-08 for the assessment year 2003-04.

against the order of the Income Tax Officer(OSD), Company Circle V, (3), Chennai – 34, dated 27/03/2006 made in under section 143(2) of the Income Tax Act.

For Appellant : Mr.T.Ravikumar, Senior Standing Counsel
For Respondent : Mr.R.Venkatanarayanan
for Mr.Subbaraya Aiyar Padmanabhan

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'D' Bench, Chennai by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that Section 14A would apply only to incomes exempted under Section Chapter III of the Income Tax Act and not to all income or part of income not forming part of the total income as finally computed under the various provisions of the Income Tax Act?

(ii) Without prejudice to the proceeding question whether the Income Tax Appellate Tribunal was right in not upholding the order of the Commissioner of Income Tax following the decisions of the Supreme Court in 155 ITR 120 and 200 ITR 488 as per which the deduction under Section 80M had to be allowed only on the net dividend income after deducting the direct expenditure and proportionate indirect expenditure incurred for earning such dividend income?”

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 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.50 lakhs.

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 not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

KST

TO

1.The Income Tax Appellate Tribunal,
Chennai 'D' Bench, Chennai.

2.The Commissioner of Income Tax,
Chennai III, Chennai.

3.The Income Tax Officer(OSD),
Company Circle-v, Chennai-34.

+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No. 100691
+1cc to Mr.T.Ravikumar, Advocate, S.R.No. 100579

TCA No.639 OF 2009

GP(CO)
GN(20/01/2020)