In the High Court of Judicature at Madras

Dated : 20.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.1021 to 1023 of 2010

The Commissioner of Income Tax, Chennai ...Appellant in all appeals

Vs

Smt.Padma Damodaran ...Respondent in all appeals

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 13.2.2009 made in ITA.Nos.822 to 824/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench respectively against the Order of the Commissioner of Income Tax/Appeals - V, Chennai in ITA.No. 217, 232 and 635/MDS/2006-2007 against the assessment order of the Income Tax Officer, Company Ward VI (i), Chennai dated 16/03/2006 PAN/GIR No. AEX pp 8280M/WSI. Assessment Year 2002-03 to 2004-05

For Appellant: Mr.T.Ravikumar, SSC
For Respondent: Ms.Sree Lakshmi Valli

COMMON JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J)

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel appearing for the appellant - Revenue and Ms.Sree Lakshmi Valli, learned counsel appearing for the respondent - assessee.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated 13.2.2009 made in ITA.Nos.822 to 824/Mds/2008 and on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench respectively for the assessment years 2002-03 to 2004-05.

3. The appeals were admitted on 07.2.2011 on the following substantial questions of law :

"Common question in all the TCAs :

i. Whether, on the facts and in the circumstances of the case, the Tribunal was right in allowing the 80IB deduction on 100% profits returned as against 45% of the profits relatable to production of Heat Shrinkable Sleeve - HSS produced by the assessee, which was one of the 17 items in the CJK ?

Additional Question in TCA.No.1022 of 2010 :

ii. Whether, on the facts and in the circumstances of the case, the Tribunal was right in allowing deduction under Section 80IB with respect to the amounts accrued from the trading activity/sale of semi finished HSS to M/s.SICHEM proprietary concern of the assessee's wife ?

Common additional question in TCA.Nos.1022 and 1023 of 2010 :

iii. Whether, on the facts and in the circumstances of the case, the Tribunal was right in estimating the trading profit at 5% of the total export sale and disallowing only to that extent of 5% as against the Revenue's stand of disallowing the entire trading profits for purpose of Section 80IB while dealing with the profits that relates to sale/trading of hot melt adhesive?"

4. The learned Senior Standing Counsel for the appellant submits that the above appeals are not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in the respective cases is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeals are dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect in the respective cases is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeals to be heard and decided on merits. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of IncomeTax (A) - V,
Chennai.

3.The Income Tax Officer,
Company Ward VI (i)
Chennai.

+1cc to Mr.G.Baskar, Advocate, S.R.No. 71037
+1cc to Mr.T.Ravikumar, Advocate, S.R.No. 70541

TCA.Nos.1021 to 1023 of 2010

PP(CO)
GN(05/11/2019)