IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 9.1.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case Appeal No.1475 of 2010

Commissioner of Income Tax II
Tiruchirapalli. Appellant

Vs.

M/s.Talco Trichy Tannery Effluent
Co (TALCO)
Tanners Mansion,
No.257, Pudukottai Road,
Sambattu, Tiruchirapalli 620 007. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 19.3.2010 made in ITA No.1676/Mds/2009 and against the order of the Commissioner of Income Tax (Appeals)- III, Chennai - 34, dated 08/07/2009 and made in ITA Nos.745,750 & 753 to 756/08-09/A-III, Chennai -34, against the order of the Income Tax Officer, Company Ward III, Chennai - 34, dated 21.03.2005 for the Assessment Year 1997-98.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel

For respondent : Dr.A.Thyagarajan, Senior Counsel for
Mr.S.Rameshkumar

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, dated 19.3.2010 made in ITA No.1676/Mds/2009, by raising the following substantial question of law:

> "Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in holding that the interest on fixed deposits and

mobilization advances was not assessable on the ground that those were adjusted against the construction cost, contrary to the ratio of the Supreme Court's decision in the case of Tuticorin Alkalie Chemicals and Fertilizer Ltd. v. C.I.T. (227 ITR 173)?"

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 question of law for determination in an appropriate case.

ssk

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Income Tax II
   Tiruchirapalli.
2. The Deputy Commissioner of
   Income Tax, Circle IV,
   No.44, Williams Road,
   Cantonment, Trichy 620 001.
3. The Commissioner of Income Tax (Appeals)-III,
   No.121, Mahatma Gandhi Road,
   Chennai - 34.
4. The Income Tax Officer,
   Company Ward - III, Chennai -34.
5. The Registrar,
   Income Tax Appellate Tribunal,
   Chennai 'D' Bench,
   Chennai.

TCA No.1475 of 2010

Kak(11/03/2019)