In the High Court of Judicature at Madras

Dated : 16.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.740 of 2010

The Commissioner of Income
Tax, Trichy ... Appellant/Respondent

Vs

M/s.Asian Handloom, Karur. ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 20.11.2009 made in ITA.No.2291/Mds/2008 on the file of the Income Tax Appellate Tribunal, Madras 'A' Bench for the assessment year 2005-06,

against the Order dated 22/10/2008 made in ITA No.251/2007-08 on the file of the Commissioner of income Tax (Appeals), Tiruchirapalli, against the order dated 20/12/2007 on the file of the Deputy Commissioner of Income Tax Circle-II, Tiruchirappalli in PAN No.AABFA0568Q.

For Appellant : Ms.S.Premalatha, JR.SC
for M.Swaminathan

For Respondent : Mr.N.Quadiiz Huseyn

Judgment was delivered by T.S.Sivagnanam,J

We have heard Ms.S.Premalatha, learned Junior Standing Counsel, for the appellant - Revenue and Mr.V.Sundareswaran, learned counsel appearing for the respondent - assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 20.11.2009 made in ITA. No.2291/Mds/2008 on the file of the Income Tax Appellate Tribunal, Madras 'A' Bench for the assessment year 2005-06.

3. The appeal was admitted on 16.8.2010 on the following substantial questions of law :

> "i. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the depreciation at the rate of 80% that is applicable to the windmill is allowable on the cost of civil works and electrical fittings ? And
>
> ii. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the depreciation is allowable on the cost of land development expense?"

4. The learned Junior Standing Counsel for the appellant submits that the above appeal is 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 this case is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect 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 appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal,
Madras 'A' Bench.

2.The Commissioner of Income Tax (Appeals),
Tiruchirappalli.

3.The Deputy Commissioner of Income -Tax, Circle-II,
Tiruchirappalli.

+1cc to Mr.M.Swaminathan, Advocate Sr.70023
+1cc to Mr.N.Quadiiz Hoseyn, Advocate Sr.70959

TCA.No.740 of 2010

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srg 01/11/2019