In the High Court of Judicature at Madras

Dated : 19.8.2019

Coram :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.966 and 969 of 2010

Commissioner of Income Tax,
Chennai ...Appellant

Vs

FL Smidth Pvt. Ltd., Chennai.
603103. ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 08.1.2010 made in ITA.Nos.1531 and 1534/Mds/2009 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench respectively for the assessment years 1998-99 and 2005-06 and against the O/o Commissioner of Income Tax (Appeals)II, Nungambakkam, Chennai 34 and made in I.T.A. No. 171/2008-2009 dated 08.07.2009 and against the Assistant Commissioner of Income Tax, Central Excise III(2) Chennai and made in P.A. No./G.O. No. AAACF4817F order dated 31.12.2008 for the Assessment year 2005-2006 and Assistant Commissioner of Income Tax Central Excise Circle III(2) Chennai and made in P.A. No./G.I. No. AAACF4817F order dated 31.10.2008 for the Assessment year 1998-1999.

For Appellant :Mr.J.Narayanasamy, SSC

For Respondent:Mr.G.Baskar

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

We have heard Mr.J.Narayanasamy, learned Senior Standing Counsel appearing for the appellant - Revenue and Mr.G.Baskar, 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 08.1.2010 made in ITA.Nos.1531 and 1534/Mds/2009 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench respectively for the assessment years 1998-99 and 2005-06.

3. The appeals were admitted on 20.12.2010 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that interest under Section 234D cannot be charged in respect of the refund granted prior to the insertion of Section 234D when the regular assessment was completed only subsequent to the insertion of Section 234D ? and
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> ii. Whether, on the facts and in the circumstances of the case, no interest can be charged even for the period subsequent to the introduction of Section 234D merely on the ground that the refund was granted prior to its introduction?"

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.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

To
1.The Income Tax Appellate Tribunal, Chennai 'B' Bench.

2.The Commissioner of Income Tax
Appeals II, Nungambakkam, Chennai 34.

3.The Assistant Commissioner of Income Tax
Central Excise III(2) Chennai 34.

+2 Ccs to Mr.N. Muthukumar, Advocate sr 71031, 71033.

RR(CO)
SP(21/01/2020)