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 No.290 of 2011

Commissioner of Income
Tax-I, Chennai ...Appellant/Appellant

Vs

M/s.Covanta Samalpatti Operating
Pvt. Ltd., Chennai-20. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 01.10.2010 made in MA.No.145/Mds/2008 in ITA.No.1118/Mds/ 2006 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2001-02, filed against the order of the Commissioner of Income Tax (Appeals) Chennai dated 21.02.2006 made in ITA.NO.468/2005-06 filed against the Assessment order of the Assistant Commissioner of Income Tax Company circle V(1), Chennai 34 dated 31.12.03 for the Assessment year 2001-2002 in PAN/GIR.NO.AAAC04905F/51150-0.

For Appellant: Mr.T.Ravikumar, SSC and
Mrs.R.Hemalatha, SSC
For Respondent: Mr.A.S.Sriraman

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.Ravikumar and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant - Revenue and Mr.A.S. Sriraman, 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 01.10.2010 made in MA.No. 145/Mds/2008 in ITA.No.1118/Mds/2006 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2001-02.

3. The appeal was admitted on 23.8.2011 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 the assessee's claim towards the insurance premium should be allowed in toto, even though the assessee was following the mercantile system of accounting and the insurance premium could be allowed only for a period of one month i.e. March 2001, applying the matching principle, since the assessee had accounted for income for the said month only ? and
>
> ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in dismissing the miscellaneous application filed by the Revenue in pursuance of the order of the Madras High Court dated 05.9.2008 in TCA.No.1437 of 2008 raising the issue of non consideration of ground No.3 raised before the Tribunal by stating that the grievance raised by the Revenue had already been taken care of in the decision given by the Tribunal ?"

4. The learned Senior 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 IV)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax(Appeals)
Chennai.

3.The Assistant Commissioner of Income Tax Company
Circle V(1),
Chennai-34.

+1cc to Mr.S.Sridhar, Advocate sr.70611
+1cc to M/s.T.Ravi Kumar, Advocate sr.70545

TCA.No.290 of 2011

rsi(co)
nr 23/10/2019