In the High Court of Judicature at Madras

Dated : 02.1.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice N.SATHISH KUMAR

Tax Case Appeal Nos.351 to 354 of 2011

Commissioner of Income
Tax-II, Tiruchirapalli ..Appellant/Respondent in all

Vs

M/s.Raja Cold Storage, Ariyalur ..Respondent/Respondent in all

Prayer : APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 18.11.2010 respectively in ITA Nos.1365 to 1368/Mds/ 2010 on the file of the Income Tax Appellate Tribunal Madras 'A' Bench respectively for the assessment years from 2002-03 to 2005-06. preferred against the order of the Commissioner of Income Tax(Appeals), Tiruchirapalli, dated 29/06/2010, made in ITA No.166/09-10, 167/09-10, 168/09-10 and 169/09-10, preferred against the order of the Deputy Commissioner of Income Tax, Circle IV, Tiruchirapalli, dated 01.12.2009 made in PAN/GIR No.AAFFR5235B for the assessment year 2002-03, 2003-04, 2004-05 and 2005-06.

For Appellant : Ms.V.Pushpa, SC

For Respondent : Mr.V.S.Jayakumar

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

Heard the learned Standing Counsel for the appellant.

2. These appeals by the Revenue challenge the common order passed by the Income Tax Appellate Tribunal, which decided the issue in favour of the assessee. The appeals were admitted on 11.10.2011 on 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 assessee firm was entitled to deduction under Section 80IB even though the assessee was maintaining only a standalone cold storage and also was not providing transportation facilities, thus not satisfying the conditions for deduction under Section 80IB(11) of the Act ?"

3. The Revenue seeks to withdraw these appeals on account of low tax effect in terms of Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes.

4. In the light of the above, these appeals are dismissed as withdrawn and the substantial question of law framed is left open. In the event, in any of the appeals, the tax effect is above the threshold limit fixed in the said circular under exceptional clauses mentioned in the 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-VI)

//True copy//

Sub Assistant Registrar

To

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

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

3. The Deputy Commissioner of Income Tax, Circle -IV, Tiruchirapalli.

+1cc to Mr.VS.Jayakumar, Advocate SR.No.754

+1cc to Mr.M.Swaminathan, Advocate SR.No.61

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GMY(22/02/2019)