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 Nos.432 to 435 of 2011
and MP.Nos.1,1 and 1 of 2011

The Commissioner of Income
Tax, Madurai ...Appellant

Vs

M/s.Thiagarajar Mills Ltd.,
Madurai-8. ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 14.1.2011 made in ITA.Nos.1173 to 1175/Mds/2010 and CO.No.71/Mds/2010 in ITA.No.1175/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench respectively for the assessment years 2002-03 to 2004-05 and 2004-05 and against the order dated 21/04/2010, made in ITA.Nos.0035/07-08, 0017/08-09, 0001/08-09 passed by the Commissioner of Income -Tax (Appeals) I, I/c. Madurai and

i) against the order dated 07/10/2006 passed by the Assistant Commissioner of Income Tax, Company Circle I, Madurai for the assessment year 2002-03,

ii) against the order dated 29/03/2006 passed by the Joint Commissioner of Income Tax, Company Circle -I, Madurai for the assessment year 2003-04.

iii) against the order dated 29/12/2006 passed by the Assistant Commissioner of Income Tax, Company Circle-I, Madurai for the assessment year 2004-05.

For Appellant : Mr.M.Swaminathan,
SSC assisted by
Ms.V.Pushpa, SC

For Respondent : Mr.R.Srinivasan

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

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel appearing for the appellant - Revenue and Mr.R.Srinivasan, 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 14.1.2011 made in ITA.Nos.1173 to 1175/Mds/2010 and CO.No.71/Mds/ 2010 in ITA.No.1175/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench respectively for the assessment years 2002-03 to 2004-05 and 2004-05.

3. The appeals were admitted on 31.10.2011 on the following substantial questions of law :

> "TCA.No.432 of 2011 :
>
> Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the interest under Section 234D cannot be levied for the period prior to 01.6.2003 is valid ?
>
> TCA.Nos.433 & 434 of 2011 :
>
> i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the computation of deduction under Section 80HHC had to be worked out without deducting the deduction available to the assessee under Section 80IA of the Act even though not considering Sub-Section 9A inserted under Section 80IA with effect from 01.4.1999 is valid ? and
>
> ii. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the interest under Section 234D cannot be levied for the period prior to 01.6.2003 is valid ? And
>
> TCA.No.435 of 2011 :
>
> i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in setting aside the order of the Commissioner of Income Tax (Appeals) and directed the Assessing Officer to grant interest under Section 244A of the Act is valid ? And
>
> ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in directing the Assessing Officer to grant interest under Section 244A of the Act even though the refund did not exceed 10% of the tax demand arising from the order of assessment under Section 143(3) of the Act?"

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. Consequently, the connected MPs are also dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal, Chennai 'B' Bench, Chennai.
2.The Commissioner of Income Tax Appeals I, Madurai.
3.The Assistant Commissioner of Income Tax,
Company Circle I, Madurai.
4.The Joint Commissioner of Income Tax,
Company Circle I, Madurai.
5.The Assistant Registrar, Income Tax,
Appellate Tribunal, Besant Nagar, Chennai -90.
6.The Director, Central Board of Direct Taxes,
New Delhi.

+1 cc to M/s.M.Swaminathan,Advocate Sr.No. 70575

AKM/27.09.19/3P-8C /

TCA.Nos.432 to 435 of 2011
& MP.Nos.1,1 and 1 of 2011