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.546 of 2011

The Commissioner of Income Tax, LTU, Chennai ...Appellant/ Respondent

Vs

M/s.Areva T&D India Ltd., Chennai-43. ...Respondent/ Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 21.6.2011 made in ITA.No.800/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2004-05 against the Orders of the Commissioner of Income Tax (Appeals), Large Tax Payer unit at Chennai dated 09.03.10 and 10.03.2010 made in ITA No.902/06-07 LTU(A) against the Order made in PAN No.AY1-061/AAACG 2115R, dated 29.12.2006 passed by the Assistant Commissioner of Income Tax, Company Circle I(1), Chennai -34.

For Appellant : Mrs.R.Hemalatha, SSC

For Respondent : Mr.M.P.Senthilkumar

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant – Revenue and Mr.M.P.Senthilkumar, 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 21.6.2011 made in ITA.No. 800/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2004-05.

3. The appeal was admitted on 23.1.2012 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 directing

the Assessing Officer to allow the claim for deduction of excise duty to the extent the same had been paid before the due date for filing the return of income without giving any supporting reasons and without noting that the entire excise duty had been debited in the books and claiming the same once again in the memo of income without adding back the excise duty unpaid as on 31.3.2004 for income tax purposes amounted to double allowance of the same expenditure ?”

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 question of law framed is 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.

RS

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax,
(Appeals)-LTU, Chennai.

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

+1cc to Mr.Philip George,Advocate, SR.No.71128
+1cc to Mr.T.Ravi Kumar, Advocate, SR.No.70547

TCA.No.546 of 2011

Kak(15/10/2019)