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.601 of 2011

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

Vs

M/s.Chettinad Cement Corporation
Ltd., Chennai-6. ...Respondent/ Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 22.6.2011 made in ITA.No.1235/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 1993-94 against the Order of the Income Tax (Appeals) made in ITA No133/2007-08, dated 07.03.2008 against the Order u/s.143(3) R/W section 253 of the Income Tax Act 1961 dated 30.10.2006 in G.I No./PAN:AAACC3130 A order of the Asst. Commissioner of Income Tax Company Circle-I (3) Chennai , made in PAN/G.I.No.AAACC3130A.

For Appellant : Mr.T.Ravikumar, SSC & 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 22.6.2011 made in ITA.No. 1235/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 1993-94.

3. The appeal was admitted on 06.2.2012 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 treating the gain of Rs.86.02 lakhs obtained by the assessee on the cancellation of the forward cover contract with HSBC Bank taken to cover the risk of exchange rate fluctuations as capital receipt, ignoring the fact that the agreement did not show that it was specific to the import of plant and machinery and the forward contract did not go through its full term till the repayment and the assessee had canceled the contract only to make a quick gain from the exchange rate fluctuations ?"

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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax
Appeals - VIII, Chennai

3.The Asst. Commissioner of
Income Tax Company Circle-I (3)
Chennai .

+1cc to Mr.S.Sridhar, Advocate, SR.No.70606/19
+1cc to Mr.T.Ravi Kumar, Advocate, SR.No.70548/19

Kak(01/11/2019)