In the High Court of Judicature at Madras

Dated : 21.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.41 & 42 of 2012 & MP.No.1 of 2012

Commissioner of Income Tax I,
Chennai ...Appellant in both Appellate

Vs

M/s.Automotive Ancillary Services
P. Ltd., Chennai-20. ...Respondent in both Appeals

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 03.8.2011 made in ITA.Nos.491 & 492/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench respectively for the assessment years 2004-05 and 2005-06, against the order of the Commissioner of Income Tax, Chennai-1, Chennai-34, dated 08/02/2011 in C.No.218(17)/263/2010-11, for the assessment year 2004-05 & 2005-06 and against the order of the Appellate Tribunal, Chennai Bench 'D' Chennai, dated 07/07/2009 in ITA.No.434 & 435/Mds/09. And agaist the order of the Commissioner of Income Tax, Chennai-I, Chennai, dated 25/03/2009 in C No.218/CIT-I/49 & 50/263/2008-09, and against the order of the Assistant Commissioner of Income Tax, Company Circle 1(1), Chennai, and against Income Tax Officer (OSD) Company Circle 1(4), Chennai, dated 30.11.2007 and 22.11.2006 for the assessment year 2004-05 and 2005-06 respectively.

For Appellant : Mr.T.Ravikumar, SSC and
Mrs.R.Hemalatha, SSC in both Appeals
For Respondent : Mr.A.S.Sriraman for M/s.S.Sridhar
in both Appeals

COMMON JUDGMENT
(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. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated 03.8.2011 made in ITA.Nos.491 & 492/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench respectively for the assessment years 2004-05 and 2005-06.

3. The appeals were admitted on 06.3.2012 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 setting aside the order of the Commissioner of Income Tax under Section 263 for the assessment years 2004-05 and 2005-06 stating that the Commissioner of Income Tax had wrongly assumed jurisdiction under Section 263 since the Assessing Officer had taken only one of the possible views regarding the eligibility of the assessee for deduction under Section 80IB ? and
>
> ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in ignoring the provisions of Clause of Section 80IB(14) of the Income Tax Act, which defines a small scale industrial undertaking as an industrial undertaking, which, as on the last day of the previous year, is regarded as a small scale industrial undertaking under Section 11B of the Industries (Development and Regulations) Act 1951 and the factual details given by the Commissioner of Income Tax to establish that the assessee had not satisfied the conditions for the assessment years in question ?"

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 MP is also dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Rs
To

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

2.The Commissioner of Income Tax Chennai, Chennai-34.

3.The Income Tax Appellate Tribunal, Chennai D Bench,
Chennai.

4.The Assistant Commissioner of Income Tax, Company Circle1(1)
Chennai.

5.The Income Tax Officer(OSA) Company Circle 1(4), Chennai.

+1 cc to M/s.S.Sridhar, Advocate Sr.No. 71127

TCA.Nos.41 & 42 of 2012
and MP.No.1 of 2012

BP(CO)
RMP(02/12/2020)