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 No.450 of 2012

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

Vs

M/s.Intimate Fashions (India) Pvt. Ltd., Guduvanchery-603002. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 26.7.2012 made in ITA.No.840/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2004-05.

against the order passed by the Commissioner of Income Tax (Appeal) III Chennai - 34, made in ITA.No. 07/07-08/ A-III, dated 17.01.2012 against the assessment order passed by the Assistant Commissioner of Income Tax Company Circle II (3), Chennai-34 made in G.I.No/PA.No. AAC12706C dated 22/12/2006.

For Appellant: Mr.Karthik Ranganathan, SSC

For Respondent: Mr.N.V.Balaji

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel appearing for the appellant - Revenue and Mr.N.V.Balaji, 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 26.7.2012 made in ITA.No. 840/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment

year 2004-05.

3. The appeal was admitted on 25.2.2013 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 holding that the foreign exchange fluctuation gain will form part of export turnover for the purpose of computing deduction allowable under Section 10B of the Income Tax Act ? and
>
> ii. Whether, on the facts and in the circumstances of the case, the foreign exchange fluctuation gain could be treated as profit derived out of export business as it has only a second degree connection with the export activity ?"

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 questions of law framed are 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

RS
To

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

2.The Commissioner of Income Tax,
(Appeal) III, Chennai - 34.

3.The Assistant Commissioner of Income Tax,
Company Circle II (3),
Chennai 34.

TCA.No.450 of 2012

BS(CO)
GN(16/10/2019)