IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.2.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case Appeal No.139 of 2015

Commissioner of Income Tax
Chennai ... Appellant

Vs.

M/s.Ucal Fuel Systems Ltd.,
Unit 505 Delta Wing,
Raheja Towers,
177 Anna Salai Chennai 600 002. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 27.2.2014 made in ITA No.2438/Mds/2005 Preferred against the Order of the Commissioner of Income Tax (Appeals) IIIm Chennai dated 31.08.2005 made in ITA.No. 108/2004-2005/A-III filed against the order of the Deputy Commissioner of Income Tax, Company Circle III (3) Chennai dated 24.03.2005 for the Assessment Year 2002-03.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.A.S.Srinivasan for
M/s.S.Sridhar

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, dated 27.2.2014 made in ITA No.2438/Mds/2005, by raising the following substantial questions of law:

"(i) Whether in the facts and circumstances of the case, the Tribunal was right in law in holding that the assessee is entitled to deduction under Section 80IA of the Act in respect of notional profits on account of power generated from its own captive

power plant and utilized by itself?
(ii) Whether in the facts and circumstances of the case, the Tribunal was right in overlooking the fact that the electricity was not sold by the assessee and therefore, the profit/gain derived by the eligible unit cannot be computed and the amount claimed by the assessee as deduction under Section 80IA is only a notional profit and not actual profit derived by the eligible unit?"

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. Commissioner of Income Tax Appeals (III)
   Chennai

2.The Assistant Registrar,
   Income Tax Appellate Tribunal,
   Madras 'C' Bench, Chennai

3.The Deputy Commissioner of Income Tax,
   Company Circle III, (3), Chennai.

+1cc to Mr.Swaminathan, Standing Counsel, Advocate, S.R.No. 11270
+1cc to Mr.S.Sridhar, Advocate, S.R.No. 11277

TCA No.139 of 2015

RSI(CO)
GN(20/03/2019)