IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2019

Coram :

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

Tax Case Appeal No.2 of 2015

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

Vs.

M/s.Vaishnavi Metals,
116, Egmore High Road,
Chennai - 600 008. ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 10.08.2011 made in ITA.No.1103/MDS/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2008-09.

Appeal against the order dated 10.05.2011 made in ITA.No.71/10-11 on the file of the Commissioner of Income Tax (Appeals)-IX, Chennai -34 for the assessment year 2008-09.

Appeal against the order dated 31.12.2010 made in PAN.No./GIR.No.AABFV6899D on the file of the Assistant Commissioner of Income Tax, Business Circle -VII, Chennai -34 for the Assessment year 2008-09.

For Appellant : Mr.Karthik Ranganathan,
SSC assisted by
Mr.S.Rajesh, SC

For Respondent : Mr.G.Baskar

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J.)

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel, assisted by Mr.S.Rajesh, learned Standing Counsel appearing for the appellant/revenue and Mr.G.Baskar, 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 10.08.2011 made in ITA.No.1103/MDS/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2008-09.

3.The appeal was admitted on 09.02.2015 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 fixing the gross profit rate at a percentage lesser than what the assessee himself had offered as gross profit, viz., 2.77% in respect of cash purchases from unregistered dealers?"

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

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal, Chennai 'B' Bench.
2.The Commissioner of Income Tax(Appeals)-IV, Chennai -34.
3.The Assistant Commissioner of Income Tax,
Business Circle-VII, Chennai -34.

+1 cc to M/s.G.Baskar,Advocate Sr.No. 73838

AKM/24.10.19/2P-5C / TCA.No.2 of 2015