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.230 of 2015

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

Vs

M/s.Sri Lakshmi Saraswathy Textiles (Arni) Ltd.,
16, Krishnama Road, Nungambakkam,
Chennai - 600 034.
PAN: AABCS2312M ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 09.06.2014 made in ITA.No.809/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2003-04.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani
For Respondent : Mr.Philip George

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

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel, assisted by Ms.K.G.Usharani, learned counsel appearing for the appellant/revenue and Mr.Philip George, 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 09.06.2014 made in ITA.No.809/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2003-04.

3.The appeal was admitted on 21.07.2015 on the following substantial questions of law :

> "i) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in holding that the assessee was entitled to deduction on profit from sale of DEPB from its total income without fulfilling the conditions prescribed in the 3rd proviso to Section 80HHC of the Income Tax Act?
>
> ii) Whether in the facts and circumstances of the case, the Tribunal was right in overlooking the fact that in the absence of 3rd proviso to Section 80HHC of the Income Tax Act, the assessee would not be entitled to deduction of profit from sale of DEPB license from its total income in the light of Explanation (baa) to Section 80HHC and Section 28(iiie) of the Income Tax Act?"

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

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax(Appeals) VI,
Chennai -34.

3.The Assistant Commissioner of Income Tax
Company Circle VI(4), Chennai.

+1 cc to M/s.T.R.Senthil Kumar,Advocate Sr.No. 73611
+1 cc to M/s.Philip George,Advocate Sr.No. 74919

AKM/01.11.19/3P-6C /

TCA.No.230 of 2015