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.233 of 2015

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

Vs

M/s.Lanco Tanjore Power Co. Ltd.,
(formerly Aban Power Company Ltd)
No.25, G.N.Chetty Road, T.Nagar,
Chennai - 600 017. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 21.08.2013 made in ITA.No.312/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2008-09, against the order of the Commissioner of Income Tax(Appeals)-III, Chennai dated 27/11/2012 in ITA.NO.540/2010-11/A-III for the assessment year 2008-09 against the order passed by the Additional Commissioner of Income Tax, Company Range-I, Chennai for the Assessment year 2008-09 dated 29.12.2010.

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

For Respondent : Mr.R.Venkatanarayanan for M/s.Subbaraya Aiyar Padmanabhan

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.R.Venkatanarayanan, learned counsel for M/s.Subbaraya Aiyar Padmanabhan, 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 21.08.2013 made in ITA.No.312/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2008-09.

3.The appeal was admitted on 16.06.2015 on the following substantial questions of law :

> "1.Whether on the facts and circumstances of the case, the Tribunal was right in holding that no adjustment under Sec. 115JB is to be made while making additions of alleged expenditure incurred to earn exempted income while computing book profit?
>
> 2.Is not the finding of the Tribunal bad by holding that no addition to book profit is to be made u/s.115JB towards disallowance u/s.14A especially according to explanation (1)(f) to 2nd Proviso to Sec.115JB(2), book profit has been defined to mean not profit as shown in the Profit and Loss Account for the relevant previous year prepared under sub-section (2) as increased by the amount of expenditure relatable to any income to which Sec.10 applies?"

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(CCC)

//True Copy//

Sub Assistant Registrar

To

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

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

3.The Additional Commissioner of Income Tax,
Company Range-I, Chennai.

+1cc to M/s.Subbaraya Aiyar Padmanabhan, Advocate sr.73641

TCA.No.233 of 2015

ss(co)
nr 31/10/2019