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 Nos.288 of 2015 and 1381 of 2009

The Commissioner of Income Tax I,
Chennai. ...Appellant in both the appeals

Vs

M/s.Vimkar Contracts Works Pvt. Ltd.,
No.45, Chamiers Road, Chennai - 600 028.
PAN: AABCV3911H ...Respondent in both the appeals

Appeal in TCA.No.288 of 2015 filed under Section 260A of the Income Tax Act, 1961 against the order dated 07.05.2014 made in ITA.No.509/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2006-07 against the order of the Commissioner of Income Tax (Appeals)II Dated 31.10.2013 and made in I.T.A. No. 1275/2013-2014 and against the order of the Deputy Commissioner of Income Tax, Company Circle III(4) Chennai 34 for the Assessment year 2006-2007 against the order of the Deputy Commissioner of Income Tax, Company Circle, Chennai 34 made in PAN/GIR No. 1830-V/AABCV3911H, 2006-2007 dated 15.02.2008.

Appeal in TCA.No.1381 of 2009 filed under Section 260A of the Income Tax Act, 1961 against the order dated 03.04.2009 made in ITA.No.1226/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2005-06 against the order of the commissioner of Income Tax (Appeals) VIII dated 07.03.2008 and made in PAN/GIR No. 1830-V/AABCV3911H in I.T.A. no. 285/2007-2008 and against the order of the Assistant Commissioner of Income Tax, Company Circle III(4) Chennai for the Assessment year 2005-2006.

For Appellant : Mr.M.Swaminathan, SSC and
Ms.V.Pushpa, SSC

For Respondent: No appearance

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

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Senior Standing Counsel appearing for the appellant - Revenue.

2.TCA.No.288 of 2015, filed by the Revenue under Section 260A of the Income Tax Act, 1961, is directed against the order dated 07.05.2014 made in ITA.No.509/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2006-07.

3.TCA.No.1381 of 2009, filed by the Revenue under Section 260A of the Income Tax Act, 1961, is directed against the order dated 03.04.2009 made in ITA.No.1226/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2005-06.

4.TCA.No.288 of 2015 was admitted on 08.06.2015 on the following substantial questions of law :

> "1) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is entitled to the benefit of Section 80IB even though it is doing the manufacturing of the goods only as a contractor in the premises rented out by the principal and that too under the supervision of the principal?
>
> 2) Whether the finding of the Tribunal is proper that the Explanation at the end of Section 80IA stating that a person who executes works contract could not be given the benefit cannot be made applicable to cases that fall under Section 80IB?"

5.TCA.No.1381 of 2009 was admitted on 21.12.2009 on the following substantial question of law :

> "Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessee is entitled to the benefit of 80IB even though it is manufacturing the goods only as a contractor and in the premises rented out by the principal under the supervision of the Principal particularly when the Principal was also claiming the benefit under Section 80IB?"

6.The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 the respective cases is less than the threshold limit.

7.In the light of the said submissions, the above tax case appeals are dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect in the respective cases 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 appeals to be heard and decided on merits. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

cse
To

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

2.The Commissioner of Income Tax II
121, Mahathma Gandhi Road
Chennai 34.

3.The Commissioner of Income Tax
Appeals VIII, Chennai

4.The Deputy Commissioner of Income Tax
Company Circle III(4) Chennai 34.

5.The Assistant Commissioner of Income Tax
Company Circle III(4) Chennai.

+1 CC to Mr.M.Swaminathan, Advocate sr 73568.

TCA.Nos.288 of 2015
and 1381 of 2009

MP(CO)
SP(31/10/2019)