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.293 of 2015

Commissioner of Income Tax,
Company Circle-I, Tirupur. ...Appellant

Vs

M/s.Adisankara Spinning Mills Limited,
207/86, Mangalam Road,
Karuvampalayam, Tirupur - 641 601.
PAN: AABCA5198B ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 18.08.2014 made in ITA.No.631/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2009-10, and against the order dated 30/1/2013 made in IT.Appeal No.51/11-12 on the file of the commissioner of Income Tax (Appeals)-II, Coimbatore.

And against the order dated 8/3/2011, made under sec.143(3) of the Income Tax Act,1961 on the file of the Deputy Commissioner of Income Tax Company Circle, Tirupur made in PAN/GIR No: AABCA5198B.

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

For Respondent: Mr.R.Sivaraman

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.R.Sivaraman, 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 18.08.2014 made in ITA.No.631/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2009-10.

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

> "Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the proceeds realized by the assessee on sale of Certified Emission Reduction Credit, which the assessee had earned on the Clean Development Mechanism in its wind energy operations, is a capital receipt and not taxable?"

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

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To

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

2.The Commissioner of Income Tax,
(Appeal-II), Coimbatore.

3.The Deputy Commissioner of Income Tax,
Company circle, Tirupur.

+1cc to Mr.T.R.Senthilkumar, Advocate SR.73610/19

TCA.No.293 of 2015

GP(CO)
CB(11/11/2019)