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.446 OF 2015

Commissioner of Income Tax,
121, Mahatma Gandhi Road,
Chennai. ...Appellant

Vs

M/s.KH Leather Industries Pvt. Ltd.,
206, Aryas, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.
PAN: AAACK1425C ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 29.10.2014 made in ITA.No.2016/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2008-09. against the order dated 26.02.2014 made in ITA.NO.1200/2013-2014 on the file of the office of the Commissioner of Income Tax (Appeals)-II Numbakkam, Chennai-34 against the order dated 28.06.2010 vide PAN.No.AAACK1425C on the file of the Income Tax Officer, Company Ward 11(1), No.121, Mahatma Gandhi Road, Chennai-34.

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

For Respondent: No appearance

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.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 29.10.2014 made in ITA.No.2016/MDS/2014 on the file of the

Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2008-09.

3.The appeal was admitted on 22.07.2015 on the following substantial questions of law :

> "1.Whether on the facts and in the circumstances of the case, the Tribunal was right in granting deduction under Section 10B of the Act, when the assessee used more than 20% of the old machineries by splitting and reconstructing in the new unit?
>
> 2.Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in dismissing the Department's appeal, when similar issue for the earlier year is pending before the High Court?"

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(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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

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

3. The Income Tax Officer,
Company Circle II(1),
No.121, Mahatma Gandhi Road,
Chennai-34.

+1cc to Mr.S.Sridhar, Advocate, S.R.No.74512

TCA.No.446 of 2015

NRL(CO)
CS/30/10/2019