In the High Court of Judicature at Madras

Dated : 02.1.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mr.Justice N.SATHISH KUMAR

Tax Case Appeal No.173 of 2013

The Commissioner of Income
Tax, Chennai ...Appellant

Vs

Ambur Economic Development
Organization Ltd., Akber Rifa & Co.,
Chennai-84 ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 24.9.2012 in ITA No.326/Mds/2012 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench for the assessment year 2006-07 and against the O/o.Commissioner of Income Tax, Chennai - I, Chennai - 34 and made in C.No.218(14)/CIT-I/263/2010-11, dated 30/09/2010 for the assessment year 2006-07 and against the Order of Deputy Commissioner of Income Tax Department, Company Circle I(1), Chennai in PAN No.AAFCA3014L dated 30.07.2008 for the assessment year 2006-2007.

For Appellant : Mr.T.Ravikumar, SSC

For Respondent : M/s.Pass Associates

Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned Standing Counsel for the appellant.

2. This appeal by the Revenue challenges the order passed by the Income Tax Appellate Tribunal, which decided the issue in favour of the assessee. The appeal was admitted on 17.6.2013 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in setting aside the ord/r of the Commissioner of Income Tax under Section 263 of the Income Tax Act, when the assessment order sought to

be revised was contrary to the Supreme Court judgment in the case of Tuticorin Alkali & Chemicals Ltd. [227 ITR 172] ? and

ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in treating the interest earned on fixed deposits prior to commencement of business as capital receipt instead of 'income from other sources' ? ”

3. The Revenue seeks to withdraw this appeal on account of low tax effect in terms of Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes.

4. In the light of the above, the appeal is dismissed as withdrawn and the substantial questions of law framed are left open.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 under exceptional clauses mentioned in the 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

RS

To

1) The Income Tax Appellate Tribunal,
Madras -C- Bench.

2) The Commissioner of Income Tax, Chennai - I,
Chennai - 34

3) The Deputy Commissioner of Income Tax,
Company Circle I(1),
Chennai

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RR(CO)
SSM(18/03/2019).