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.557 of 2015

Commissioner of Income Tax,
No.63, Race Course Road,
Coimbatore. ...Appellant

Vs

M/s.Sakthi Fabrics,
No.10/1, Kathir Nagar, 8th Street,
Behind DSK Hospitals, Kangeyam Road,
Tirupur - 641 604.
PAN: AAQFS4648L ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 20.02.2015 made in ITA.No.1729/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10 against the Order of the Commissioner of Income Tax (Appeals)-II, Coimbatore, made in ITA No.19/12-13,dated 28.03.14 against the Order of the Income Tax Officer, Ward I (2),Tiruppur made in PAN/GIR No.AAQFS4648L dated 26.12.2011 for the Assessment Year 2009-10.

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

For Respondent: Mr.N.V.Balaji

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.N.V.Balaji, 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 20.02.2015 made in ITA.No.1729/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10.

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

> "1.Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in cancelling penalty levied u/s.271(1)(c) of the Income Tax Act relying on the earlier judgment of the Hon'ble Supreme Court in the case of CIT vs. S.Khader Khan Son?
>
> 2.Whether on the facts and circumstances of the case the Appellate Tribunal ought to have uphold the penalty levied u/s.271(1)(c) of the Income Tax Act relying on the later judgment of the Hon'ble Supreme Court in the case of MAK Data (P) Ltd., vs. CIT?
>
> 3.Whether on the facts and circumstances of the case the Appellate Tribunal was right in law in cancelling penalty levied u/s.271(1)(c) of the Act without considering the letter dated 22.12.2011 voluntarily offered by the assessee the undisclosed income during the said financial year?"

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.

cse

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

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

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

3. The Income Tax Officer,
Ward I (2),Tiruppur

+1cc to Mr.N.V.Balaji, Advocate, SR.No.74916
+1cc to Mr.T.R.Senthil Kumar, Advocate, SR.No.73607

TCA.No.557 of 2015

Kak(31/10/2019)