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.691 OF 2015

The Commissioner of Income Tax, Coimbatore ...Appellant/Appellant

Vs

M/s.Karthi Kirshna Exports, Tirupur ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 03.9.2014 in ITA No.1521/Mds/2014 on the file of the Income Tax Appellate Tribunal Madras 'D' Bench for the assessment year 2006-07.

For Appellant : Mr.T.R.Senthilkumar, SSC

ORDER

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 25.8.2015 on the following substantial questions of law :

> “i. Whether, while computing relief under Section 10B, expenditure incurred by the assessee has to be excluded from its total turnover also, if the same is reduced from export turnover ? And
>
> ii. Whether the definition of total turnover, as defined in Section 80HHC, which was subsequently inserted vide amendment, can be imported for the purpose of applying the formula prescribed by Sub-Section (4) of

Section 10B, when the Legislature has intentionally omitted the definition of the term 'for the purpose of Section 10B' ?"

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 In the light of the above, the appeal is dismissed as withdrawn and the substantial questions of law framed are left open.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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rs

To

1. The Income Tax Appellate Tribunal,
   Madras 'D' Bench.

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

3. The Income Tax Officer,
   Ward 1(4), Tirupur.

+1cc to Mr.T.R.Senthilkumar, Advocate, S.R.No.211
+1cc to Mr.R.Hemalatha, Advocate, S.R.No.284

TCA.No.691 of 2015

SSD(CO)
CS/19/02/2019