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.772 of 2015

Commissioner of Income Tax,
Company Circle III, Chennai. ...Appellant

Vs

M/s.Vestas Wind Technology India Pvt. Ltd.,
298, Old Mahabalipuram Road,
Sholinganallur, Chennai - 600 119.
PAN: AAACA9274F ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 27.03.2015 made in ITA.No.68/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2007-08.

Appeal Against the order dated 10-9-13 made in ITA No.1092/2013-14 on the file of the commissioner of Income Tax (Appeals)-III, Chennai for the Assessment Year 2007-08.

Appeal Against the order dated 29-12-2010 made in PAN No.AAACA9274F on the file of the Additional Commissioner of Income Tax, Company Range-III, Chennai for the Assessment year 2007-08.

For Appellant : Mr.M.Swaminathan, SSC
and Ms.V.Pushpa, SC

For Respondent: No appearance.

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J.)

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel, and Ms.V.Pushpa, 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 27.03.2015 made in ITA.No.68/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2007-08.

3.The appeal was admitted on 15.09.2015 on the following substantial question of law :

> "Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the disallowance of prorate interest expenditure on account of interest free advances to its subsidiary company was not warranted especially when the Hon'ble Supreme Court in the case of M/s.Tulip Star Hotels Limited in C.A.No.(CC).7138-7140 of 2012 by an order dated 30.04.2012 has held that the judgment delivered in the case of S.A.Builders requires consideration and is pending for consideration before the Larger Bench?"

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(Appeals)-III,
Chennai.

3.The Additional Commissioner of Income Tax,
Company Range-III, Chennai

+1cc to Mr.M.Swaminathan, Advocate SR.73572

TCA.No.772 of 2015

LN(CO)
CB(13/11/2019)