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.839 of 2015

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

Vs

M/s.Sreepathy Paper & Boards Pvt. Ltd.,
1680/31, Ramani Regency,
Trichy Road, Ramanathapuram, Coimbatore.
PAN: AAGCS7439C ...Respondent/ Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 04.03.2015 made in ITA.No.2136/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2010-11 against the order dated 06.05.2014 made in Appeal No.002/13-14 on the file of the Commissioner of Income Tax Appeals I,Coimbatore against the order dated 01.03.2013 Under Section 143(3) of IT ACT 1961 for the Asessment Year 2010-2011 on the file of the Deputy Commissioner of income tax,Company Circle I(2), Coimbatore.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani
For Respondent: No appearance

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.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 04.03.2015 made in ITA.No.2136/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2010-11.

3.The appeal was admitted on 29.09.2015 on the following substantial questions of law :

> "(i) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the proceeds realized by the assessee on sale of certified emission reduction credit, which the assessee had earned on the clean development mechanism in its wind energy operations, is a capital receipt and not taxable?
>
> (ii) Whether in the facts and circumstances of the case and in law, the Appellate Tribunal is correct in holding that sale of carbon receipt and not liable for tax under any head of income under the Income Tax Act, 1961? and
>
> (ii) Whether in the facts and circumstances of the case and in law, the Income Tax Appellate Tribunal is correct in holding that there is no cost of acquisition or cost of production to get entitlement for the carbon credits, without appreciating that generation of carbon credits is intricately linked to the machinery and processes employed in the production process by the assessee?"

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 VIII)

//True Copy//

Sub Assistant Registrar

cse
To

1.THE INCOME TAX APPELLATE TRIBUNAL, CHENNAI 'C' BENCH.

2.THE COMMISSIONER OF INCOME TAX APPEALS I,COIMBATORE
3. THE DEPUTY COMMISSIONER OF INCOME TAX,COMPANY CIRCLE I(2), COIMBATORE

Copy to:
The Section Officer,
VR Section,
High Court, Chennai.

+1cc to Mr.T.R.Senthilkumar , Advocate SR.No. 73602

TCA.No.839 of 2015

A.SK(05/12/2019)