IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.410 of 2013

Commissioner of Income-tax,
Chennai. .. Appellant/Appellant

-vs-

M/s.Rane Engine Valves Ltd.,
Maithri,
132, Cathedral Road, Chennai-600 086.
PAN: AAACT1279M .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 21.08.2012, on the file of the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.1082/Mds/2012 for the assessment year 2004-05 appeal against the order of the Income Tax Appeals Tribunal Madras C Bench dated 21.08.2012 in ITA.NO.1082/MDS/2012 Assessment Year 2004-2005/ PAN AAACT/1279 M Against the Commissioner of Income Tax Appeals,Large Tax Payer Unit , chennai 101 in ITA.NO.28/2010-2011/LTU(A) DATED 24.02.2012 Against the order of the Assistant Commissioner of Income Tax Company Circle V(3), chennai 34 in AAA CE 1413 G dated 04.02.2009.

For Appellant : Mr.T.Ravi Kumar,
Senior Standing Counsel &

: Ms.R.Hemalatha,
Senior Standing Counsel

For Respondent : Mr.Mr.R.Venkatanarayana,

: for M/s.Subbaraya Aiyar,
Padmanabhan & Ramamani

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JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

This appeal filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, is directed against the order dated 21.08.2012, passed by the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.1082/Mds/2012 for the assessment year 2004-05.

2.The above appeal was admitted on the following substantial questions of law, vide order dated 02.09.2013:-

> "(i) Whether on the facts and circumstances of the case the Tribunal was right in holding that the assessee is eligible for benefit of deduction under Section 32 A though the assessee had transferred the Investment Allowance reserve to General Reserve?
>
> (ii) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the assessee had utilized the reserve for the purchase of plant and machinery and therefore there is no further requirement of continuing with the reserve?
>
> (iii) Whether on the facts and circumstances of the case, the Tribunal was right in holding that once the assessee purchases sufficient machinery to the extent of credit in the investment allowance reserve, the assessee should be deemed to have utilized the reserve for purchase of machinery and hence satisfied the conditions for deduction under Section 32A?
>
> (iv) Whether the Tribunal was right in holding that the investment allowance reserve has been utilized for purchase of machinery, though the balance in the reserve was not adjusted against the cost of machinery purchased?"

3.Heard Mr.T.Ravi Kumar and Ms.R.Hemalatha, learned Senior Standing Counsel for the appellant and Mr.R.Venkatanarayana, learned counsel, for M/s.Subbaraya Aiyar, Padmanabhan & Ramamani, for the respondent.

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 08.08.2019 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)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Assistant Commissioner of Income-tax,
Company Circle V(3), Chennai.

2.The Commissioner of Income-tax (Appeals),
Large Taxpayer Unit,
II Floor, 1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar Western Extension, Chennai-600 101.

3.The Income-tax Appellate Tribunal 'C' Bench, Chennai.

+1cc to Mr.T.Ravi Kumar , Advocate71820 SR.No. 71820
+1cc to M/s.Subbaraya Aiyar, Advocate SR.No. 72376

T.C.A.No.410 of 2013

A.SK(15/11/2019)