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 Nos.427 to 429 of 2013

Commissioner of Income Tax,
Chennai. ..Appellant/Appellant in all Appeals

-vs-

M/s.Muthupillais 1918,
96, Thirunallar Road, Karaikal.
..Respondent/Respondent in all Appeals

Appeals under Section 260A of the Income-tax Act, 1961, against the common order dated 23.11.2012, on the file of the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.Nos.895 & 896/Mds/2009 and 642/Mds/2011 for the assessment years 2004-05, 2005-06 and 2006-07 respectively against the Order of the Commissioner of Income Tax (Appeals), No.44, Williams Road, Cantonment, Tiruchirapalli order dated 2.03.09, 02.03.19 &10.01.2011 made in ITA No.682/06-07, 249/07-08, 249/07-08 and 221/08-09 for the Assessment Year 2004-05, 2005-06, 2006-07 and against the Order of the Income Tax Officer, Ward -I(1), Nagapattinam, Deputy Commissioner of Income Tax, Circle - I, Thanjavur and The Income Tax Officer, Ward 1 (3), Thanjavur made in PAN No./GI No.AAKFM 2034Q/M-496, GIR No/PAN-M.318/AAKFM 2034Q & GIR No./PAN-318-M order dated 29.12.2006, 30.11.2007 & 24.12.2008 respectively.

For Appellant: Mr.T.R.Senthil Kumar,
Senior Standing Counsel
assisted by Ms.K.G.Usharani,
Junior Standing Counsel

For Respondent: Mr.A.S.Sriraman
For Mr.S.Sridhar

COMMON JUDGMENT

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

These appeals filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, are directed against the common order dated 23.11.2012, passed by the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.Nos.895 & 896/Mds/2009 and 642/Mds/2011 for the assessment years 2004-05, 2005-06 and 2006-07 respectively.

2.The above appeals were admitted on 25.11.2013, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case the Tribunal was right in holding that the assessee who is running the business of bakery is entitled for deduction under Section 80IB by treating the activity of baking and processing of food items as manufacturing or production of goods in the light to the decision of the Hon'ble Supreme Court decision in the case of Indian Hotels Co.Ltd. 245 ITR 538 (SC) wherein it is held that foodstuffs prepared by cooking or any other mode does not amount manufacture or production?
>
> (ii) Whether on the facts and in the circumstances of the case the Tribunal was right in holding that, the Assessing Officer had not withdrawn the deduction under Section 80IB on the ground that the assessee's activity of baking bread, cakes, etc., is not a manufacture?"

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Junior Standing Counsel for the appellant and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned counsel for the respondent.

4. The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 appeals are 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 appeals to be heard and decided on merits. No costs.

abr

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Income-tax Officer, Ward 1(3), Thanjavur.

2.The Income-tax Officer, Ward I(1), Nagapattinam.

3.The Deputy Commissioner of Income-tax Circle-I,
Thanjavur.

4.The Commissioner of Income-tax (Appeals),
No.44, Williams Road, Cantonment,
Tiruchirapalli-620 001.

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

6. The Commissioner of Income Tax, Chennai.

+1cc to Mr.S.Sridhar, Advocate, SR.No.71824
+1cc to Mr.T.R.Senthil Kumar, Advocate, SR.No.72303

T.C.A.Nos.427 to 429 of 2013

Kak(31/10/2019)