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.909 of 2015

Commissioner of Income Tax,
Trichy. ...Appellant/Appellant

Vs

M/s.Prem Textile International,
32, Ramakrishnapuram,
karur - 639 001
[PAN: AAAFP42191] ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 30.01.2015 made in ITA.No.149/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2010-11.

against the order of the Commissioner of Income Tax (Appeals), Tiruchirapalli, dated 22.10.2013 and made in ITA.No. 172/2012-2013/CIT(A)/TRY and against the Order of the Assistant Commissioner of Income Tax, Circle - II, Range II, Tiruchirapalli dated 31.01.2013 for the assessment year 2009-10.

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

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

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 and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned counsel appearing for the respondent/assessee.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated

30.01.2015 made in ITA.No.149/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2010-11.

3.The appeal was admitted on 14.10.2015 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 receipts from sale of carbon credits are to be treated as capital receipt not assessable to tax?
>
> (ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the receipts from the sale of carbon credits are entitled for deduction under Section 80IA with respect to the wind mill division? and
>
> (iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is entitled for deduction under Section 80IA with respect to the wind mill division by following the decision of the Madras High Court in the case of Velayuthasamy Spinning Mills?"

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-IV)

//True Copy//

Sub Assistant Registrar

cse

To

1.The Income Tax Appellate Tribunal,
  Chennai 'B' Bench.

2.The Commissioner of Income Tax (Appeals),
  No.44, Williams Road,
  Contonment, Tiruchirapalli 620 001.

3.The Assistant Commissioner of Income Tax,
  Circle II, Range II,
  No.44, William Road Contonment,
  Tiruchirapalli.

+1cc to Mr. S.Sridhar, Advocate, S.R.No. 74519
+1cc to Mr.M.Swaminathan, Advocate, S.R.No.73574

TCA.No.909 of 2015

MP(CO)
GN(14/10/2019)