In the High Court of Judicature at Madras

Dated : 21.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.736 of 2013

The Commissioner of Income Tax, Chennai ...Appellant/Respondent

Vs

M/s.Chettinad Quartz Products Pvt. Ltd. (now merged with Chettinad Morimura Semiconductor Material Pvt. Ltd.), Padur, Kancheepuram District-603103 ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 23.7.2012 made in ITA.No.1180/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2007-08 against the order of the Income tax Appellant Tribunal in ITA.No.1180/Mds/2012 for the Assessment year 2007-08 order dated 23/07/2012 as against the order of the Commissioner of Income Tax, Chennai -34 for the Assessment year 2007-2008 PAN.No.AABCC2098 order dated 27/03/2012 as against the order of the Income Tax officer Company ward I(1) Chennai-34 GI and PAN.No.AABCC20981) for the Assessment year 2007-2008 order dated 18/12/2009.

For Appellant : Mr.T.Ravikumar, SSC and Mrs.R.Hemalatha, SSC

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

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Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.Ravikumar and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant – Revenue and Mr.A.S. Sriraman, 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 23.7.2012 made in ITA.No. 1180/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2007-08.

3. The appeal was admitted on 20.12.2013 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in setting aside the order passed under Section 263 ?
>
> ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not considering the deduction made under Section 10B is to be allowed after set off of unabsorbed depreciation ? And
>
> iii. Is not the finding of the Tribunal wrong in arriving at the conclusion that two views were possible and the Assessing Officer having taken one view with which, the Commissioner of Income Tax did not agree especially when the assessment order passed is silent on the issue of allowability of deduction under Section 10B and had not decided the issue ?"

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

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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/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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

+1 cc to Mr.S.Sridhar Advocate sr71122

TCA.No.736 of 2013

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