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.773 of 2013

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

-vs-

M/s.S&S Power Switchgear Ltd.,
II Floor, New No.67, Old No.19,
Dr.Ranga Road, Mylapore,
Chennai-600 004. .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 04.04.2013, on the file of the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.1020/Mds/2011 for the assessment year 2008-09. Against the order dated 16/3/11 made in ITA no 479/10-11 on the file of the comissioner of Income Tax (Appeals)-V, Chennai for the assessment year 2008-09. Against the order dated 31/12/2010 made in GIR no/PAN SA-111/AABCS05815 on the file of the Assistant Commissioner of Income Tax company circle VI(1) Chennai, for the assessment year 2008-09.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel

: assisted by Ms.K.G.Usharani,
Junior 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

04.04.2013, passed by the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.1020/Mds/2011 for the assessment year 2008-09.

2.The above appeal was admitted, on 21.03.2014, on the following substantial question of law:-

> "Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the brought forward business loss could be set off against the capital gains once it is found that the gains have arisen out of sale of business asset?"

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.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 question of law framed is 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

//True Copy//
Sub Assistant Registrar



abr
To

1.The Assistant Commissioner of Income-tax,
Company Circle VI(1), Chennai-600 034.

2.The Commissioner of Income Tax (Appeals)-V,
121, Mahatma Gandhi Road, Chennai-600 034.

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

+1cc to Mr.T.R.Senthil Kumar, Advocate SR.72306
+1cc to  M/s.Subbaraya Aiyar, Advocate SR.72319

T.C.A.No.773 of 2013

RSV(CO)
CB(30/10/2019)