IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.147 of 2016

The Commissioner of Income Tax,
Circle 1(1), Madurai ...Appellant

Vs

M/s.Solaimalai Automobiles
Pvt. Ltd., Madurai. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 04.9.2015 made in ITA.No.2751/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2010-11 against the order of the Commissioner of Income Tax (A) Madurai, dated 28.08.2014 made in PAN/NO. AABCS 9923 N and against the order passed by the Joint commissioner of Income Tax range I, Madurai dated 27.09.2013 made in Pdl/Penalty/R.1/MDU/2013-2014.

For Appellant : Mr.M.Swaminathan, SSC assisted by Ms.V.Pushpa, SC
For Respondent: Mr.J.Nareshkumar

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel appearing for the appellant - Revenue and Mr.J.Nareshkumar, 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 04.9.2015 made in ITA.No. 2751/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2010-11.

3. The appeal was admitted on 23.2.2016 on the following substantial questions of law :

> "(i) Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the penalty under Section 271E ? and
>
> (ii) Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that when the assessee draws funds and makes payments to the running current account maintained with its sister concern M/s.Solaimalai Enterprises, the repayment is neither a loan nor advance and hence, the provisions of Section 271E could not be attracted when the assessee has not shown any business expediency for repaying the borrowed amount in cash ?"

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 VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal, Chennai 'D' Bench,Chennai.
2.The Commissioner of Income Tax (A) Madurai.
3.The Joint commissioner of Income Tax range I, Madurai.

+1cc to Mr.M.Swaminathan,Advocate SR.No. 75847
+1cc to Mr.J.Nareshkumar , Advocate SR.No. 75401

TCA.No.147 of 2016

A.SK(12/12/2019)