IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.120 of 2018

Principal Commissioner of Income Tax 2
No.63, Race Course Road
Coimbatore. .. Appellant

Vs.

M/s.Point Textiles (P) Ltd.,
R-37, R-38, G-7, G-8 & F-22
SIPCOT Industrial Growth Centre
Perundurai.
PAN:AAECP6116F .. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 28.10.2016 made in ITA No.749/Mds/2016.

Against the Order of the Commissioner of Income Tax (Appeals)-3 Coimbatore and made in ITA.No. 52/2014-15(A)-I dated 08/12/2015 and against the Order of Income Tax Officer Ward – II (2), Erode -1, and made in PAN/GIN.No. AAECP6116F dated 28/02/2014 for assessment Year 2011-2012.

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

For Respondent: Mr.R.Sivaraman

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 28.10.2016, ITA No.749/Mds/2016, by raising the following substantial questions of law:

> "1. Whether the Tribunal erred in ignoring the fact the income assessed under Section 68 cannot be classified under any one of the heads of income under Section 14 of the Act, and hence cannot be set off against loss under other heads considering the specified provision of Section 71 of the Income Tax Act?
>
> 2.Is the findings of the Tribunal not perverse in holding that it did not find any infirmity in the order of the CIT(A) on the ground that the revenue had not brought any decision other that relied upon by the CIT(A) to controvert the decision of the jurisdictional High Court in the case of CIT vs. Chensing Ventures (291 ITR 258) without appreciating the fact that the Assessing Officer in the Statement of Facts filed before the ITAT and relied upon the decision of the Hon'ble Kerala High Court in CIT vs. Sponge Iron Ltd (2015) (377 ITR 380) which was rendered much later?"

2. When the matter is taken up for hearing, the learned Senior Standing Counsel for the Department brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019, dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore only).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed, as not pressed, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

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To

1. Income Tax Appellate Tribunal
   Madras 'C' Bench, Chennai.

2.The Commissioner of Income Tax,
(Appeals) - 3, Coimbatore.

3.The Income Tax Officer,
Ward -II(2), Erode.

+1cc to Mr.T.R.Senthilkumar, Advocate, S.R.No. 78051

TCA No.120 of 2018

RR(CO)
GN(31/10/2019)