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.24 of 2016

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

Vs

M/s.Ambattur Clothing Ltd.,
Chennai-58. ...Respondent/ Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 12.6.2015 made in ITA.No.1435/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2007-08 against the order of the Commissioner of Income tax Appeals I, chennai 34 dated 20.01.2014 and made in ITA.NO.224/09-10 /A I and against the order of the Deputy commissioner of Income Tax Company Circle (I), chennai dated 11.11.2019 made in PAN/GIR.NO. AAA CA4 1270/AX1 091 for the Assessment Year 2007-2008.

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

For Respondent: Mr.R.Sivaraman

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.R. Sivaraman, 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 12.6.2015 made in ITA.No. 1435/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2007-08.

3. The appeal was admitted on 01.2.2016 on the following substantial questions of law :

> "i. Whether on the facts and in the circumstances, the Tribunal was right in treating the factory building as a capital asset especially when the building was used for a business purpose from the asset year 1983-84 onward till the asset year 2005-06 ?
>
> ii. Is not the finding of the Tribunal bad by setting aside the order of the Assessing Officer, who had invoked Section 50 for a depreciable asset, since the said asset was used for the purpose of business forming part of block of assets? and
>
> iii. Whether the finding of the Tribunal is proper especially when the assessee had claimed depreciation on the land nearly 22 years and the assets formed part of block of assets for which, the benefit of indexation was granted from the sale value of the land ?"

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)

//True Copy//

Sub Assistant Registrar

To
THE INCOME TAX APPELLATE TRIBUNAL, CHENNAI 'B' BENCH.
2.THE COMMISSIONER OF INCOME TAX APPEALS I, CHENNAI 34
3.THE DEPUTY COMMISSIONER OF INCOME TAX COMPANY CIRCLE (I), CHENNAI
+1cc to Mr.T.Ravikumar , Advocate SR.No. 75270

TCA.No.24 of 2016

A.SK(29/11/2019)