IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

T.C.A.Nos.169 to 171 of 2018

Commissioner of Income Tax,
Chennai. ... Appellant
(in all the appeals)

Vs

M/s.Sundaram Fasteners Limited,
98A, Dr.Radhakrishnan Salai,
Chennai 600 004.
PAN: AAACS8779D ... Respondent
(in all the appeals)

PRAYER in TCA.No.169 of 2018: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "D" Bench, dated 15.07.2016 passed in ITA.No.956/Mds/2011.

PRAYER in TCA.No.170 of 2018: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "D" Bench, dated 15.07.2016 passed in ITA.No.1009/Mds/2011.

PRAYER in TCA.No.171 of 2018: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "D" Bench, dated 15.07.2016 passed in ITA.No.1010/Mds/2011.

Against the order of the Commissioner of Income Tax Appeals V dated 24.03.2011 in ITA No.557/2008-2009.

Against the order of the Commissioner of Income Tax Appeals V dated 24.08.2011 in ITA No.471/2009-10.

Against the Office of the Assistant Commissioner of Income Tax Company circle VI(4) Chennai, dated 21.12.2009 PAN/GIR No.AAACS-8779D for the assessment year 2003-2004.

Against the order of the Office of the Assistant Commissioner of Income Tax Company Circle VI(4) dated 31.12.2008.GIR/PAN AAACS8779D for the assessment year 2005-2006.

For Appellant :Mr.J.Narayanaswamy(in all the appeals)
Senior standing counsel

For Respondent :Mr.Venkata Narayanan
for M/s.Subbaraya Aiyar Padmanabha
Ramamani
(in all the appeals)

COMMON JUDGMENT

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

These Tax Case Appeals have been preferred by the Revenue against the order dated 15.07.2016 passed in ITA.No.956, 1009 & 1010/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment years 2005-06, 2003-04 & 2005-06 respectively.

2.ITA No.956/Mds/2011 has been filed by the assessee and ITA Nos.1009 & 1010/Mds/2011 have been filed by the revenue. The Tribunal has allowed the assessee's Appeal and partly allowed the revenue's Appeals. Against which the present Appeals have been filed.

3.TCA.No.169 of 2018 was admitted on 10.04.2018 on the following substantial question of law :

> “Whether the loss of one unit can be set off against the profit of other units for the purpose of deduction under Section 80IB of the Income Tax Act, 1961?"

4.TCA.Nos.170 & 171 of 2018 were admitted on 10.04.2018 on the following substantial questions of law :

> “Whether the Tribunal erred in law in holding that the assessee was entitled to deduction of interest on funds borrowed for the purpose of the assessee's business, when the funds so borrowed were advanced to the wholly owned subsidiary of the assessee?"

5.Mr.J.Narayanaswamy, learned Senior Standing Counsel appearing on behalf of the appellant would submit that the tax effect in these cases are less than Rs.1 crore and is covered by Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, Delhi. As per the said circular, the monetary limit to file an appeal before the High Court is fixed at Rs.1 crore. In these cases, tax effect is less than Rs.1 crore and therefore, these cases have to be dismissed.

6.This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the said Circular, which prescribes monetary limit for filing appeal is usefully extracted as follows:

> 2.As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

S.No.	Appeals / SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appeallate Tribunal	50,00,000
2.	Before High Court	1,00,00,000
3.	Before Supreme Court	2,00,00,000

7.In view of the submissions made by the learned counsel appearing on behalf of the appellant and also in view of the Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Delhi, these Tax Case Appeals are dismissed on account of tax effect. However, the substantial questions of law framed is left open. In the event the tax effect is above the limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//
Sub Assistant Registrar

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To

1.The Commissioner of Income Tax,
Chennai.

2.Income Tax Appellate Tribunal 'D' Bench,
Chennai.

3.The Commissioner of Income Tax Appeals V
Chennai.

4.The Commissioner of Income Tax Company Circle VI(4)
Chennai.

+1cc to Mr.J.Narayanaswamy, Advocate SR.101303.
+1cc to M/s.Subbaraya Aiyar, Advocate SR.101583

MG(CO)
CB(10/01/2020)