IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Tax Case (Appeal) No.320 of 2016

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

-vs-

M/s.Muthu Export House,
No.25, New Salem Bye Pass Road,
Karur-639 006.
[PAN: AAAFM8638A] ... RespondentRespondent

Tax Case Appeal filed under Section 260A of the Income-tax Act, 1961 against the order of the Income-tax Appellate Tribunal, 'A' Bench, Chennai, dated 09.07.2015, passed in I.T.A.No.1154/Mds/2015, for the assessment year 2010-11, against the order of Commissioner of Income Tax(Appeals)-I, Trichy in ITA.NO.61/2013-14/CIT(A)/TRY dated 05/02/15 against the order of Assistant Commissioner of Income-Tax, Trichy in AAAFM8638A/dated 26/03/13.

For Appellant : Mrs.V.Pushpa,
Junior Standing Counsel
: for Mr.M.Swaminathan,
Senior Standing Counsel

For Respondent : Mr.N.Quadir Hoseyn

JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

This appeal, by the appellant/Revenue filed under Section 260A of the Income Tax Act, 1961, is directed against the order of the Income-tax Appellate Tribunal, 'A' Bench, Chennai, dated

09.07.2015, in I.T.A.No.1154/Mds/2015, for the assessment year 2010-11.

2.Heard Mrs.V.Pushpa, learned Junior Standing Counsel for the appellant; and Mr.N.Quadir Hoseyn, learned counsel for the respondent.

3.The above appeal has been admitted, on 22.04.2016, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that receipts from sale of carbon credits are to be treated as capital receipt not assessable to tax? and
>
> (ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the receipts from the sale of carbon credits are entitled for deduction under Section 80IA with respect to the windmill division?"

4.We have perused the order of assessment as well as the order passed by the Commissioner of Income-tax (Appeals)-1, Tiruchirapalli, and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue this appeal in view of the low tax effect. Hence, this appeal is dismissed and the substantial questions of law, framed for consideration, are left open. The Revenue is at liberty to seek for restoration of appeal if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Income-tax Appellate Tribunal, 'A' Bench, Chennai.

2.The Commissioner of Income Tax(Appeals)I
NO.44 Williams Road, Contonment, Trichy.

3.The Assistant Commissioner of Income Tax,
Circle-II, Trichy.

+1cc to M/s.N.Quadir Hoseyn, Advocate sr.no.7475

T.C.(A) No.320 of 2016

nr 01/03/2019