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.339 of 2016

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

Vs

M/s.AVT Infotech Pvt. Ltd., Chennai-8. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 06.11.2015 made in ITA.No.143/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2005-06, and against the order of the Commissioner of Income Tax(Appeals)-I, Chennai-34, dated 23.09.2014, made in ITA No.98/09-10/A-1, and against the order of the Deputy Commissioner of Income Tax company circle I(1), Chennai, dated 27.07.2009, made in PA/G.I.R.No.AACCA8938J/AX6-312 Assessment year 2005-06.

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

Respondent :served and no appearance

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant - Revenue.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 06.11.2015 made in ITA. No.143/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2005-06.

3. The appeal was admitted on 02.6.2016 on the following substantial questions of law :

> "i. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that deduction under Section 10A of the Income Tax Act has to be allowed without setting off of brought forward unabsorbed business losses from the earlier assessment years ? and
>
> ii. Is not the finding of the Tribunal bad while granting deduction under Section 10B without set off of brought forward losses especially when Section 2(45) clearly defines that the total income as an amount referred to in Section 5, which is to be worked out after giving effect to the provisions of Sections 71 and 72 as contained in Chapter VI of the Income Tax Act?"

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.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//
Sub Assistant Registrar

RS

To
1.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(1),Chennai.

+1cc to Mr.T.Ravikumar, Advocate SR.75256

TCA.No.339 of 2016

BR(CO)
CB(20/11/2019)