IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.227 of 2018

Commissioner of Income Tax,
Ward – I, Tuticorin. .. Appellant/Appellant

-vs-

M/s.Diamond Shipping Agencies Pvt. Ltd.,
A-4, Diamond House,
Word Trade Avenue, Harbour Estate,
Tuticorin – 628 004
PAN: AAACD 6487H .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961 against the order dated 16.10.2017 on the file of the Income-tax Appellate Tribunal 'D' Bench, Chennai, in I.T.A.No.1693/MDS/2017 for the assessment year 2014-15. filed against the order dated 12.04.2017 made in ITA.NO.196/16-17 on the file of the Commissioner of Income Tax (Appeals)I, Madurai filed against the order of the Deputy Commissioner of Income Tax, Circle 1, Tuticorin dated 02.12.2016 for the Assessment Year 2014-2015.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel

: assisted by M/s.V.Pushpa,
Standing Counsel

For Respondent : Mr.G.Baskar

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam, J.)

This appeal, filed by the appellant/revenue under Section 260A of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), is directed against the order dated 16.10.2017, passed by the Income-tax Appellate Tribunal 'D' Bench, Chennai, in I.T.A.No.1693/MDS/2017 for the assessment year 2014-15.

2.The above appeal was admitted on 12.06.2018 on the following substantial question of law:-

> "Whether Container Freight Station constitutes an inland port and is entitled to deduction under Section 80IA(4) of the Income Tax Act, 1961?

3.The revenue does not dispute the position that the Substantial Question of law framed for consideration has been answered against the revenue by the Division Bench of this Court in T.C.A.No.405 of 2016 dated 21.06.2016 [The Commissioner of Income Tax, Chennai vs. M/s.AL Logistics P. Ltd.]. The said appeal was dismissed following the earlier decision which decision was affirmed by the Hon'ble Supreme Court in paragraph No.4 of the judgment and the same has been noted, which is quoted herein below:

> "4.At the time when the instant Tax Case Appeal came up for admission, Mr.T.Ravikumar, learned Senior Standing Counsel for the Income Tax fairly submitted that in the case of the very same assessee, in Tax Case Appeal No.1031 of 2014, between Commissioner of Income Tax and A.L.Logistics Pvt. Ltd) reported in (2015) 374 ITR 0609(Mad), the above substantial questions of law have been answered against the revenue, and the said decision is under challenge before the Hon'ble Apex Court in SLP(Civil) CC.No.9566 of 2015. He also submitted that the decision rendered by the Delhi High Court in Container Corporation of India Limited vs. Assistant Commissioner of Income Tax & CIT, reported in (2012) 81 CCH 0087 DelHC and followed in the case of AL Logistics Pvt. Ltd., is also under challenge in Appeal (Civil) No.8900 of 2012."

4.Following the above decision, the appeal filed by the revenue is dismissed and the substantial question of law is answered against the revenue. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Commissioner of Income Tax,
   (Appeals)I, Madurai.

3. The Deputy Commissioner of Income Tax Circle 1,
   Tuticorin.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.74839
+1cc to Mr.G.Baskar, Advocate, S.R.No.74248

T.C.A.No.227 of 2018

RSI(CO)
CS/25/10/2019