IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.11.2019
CORAM :

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

T.C.A.Nos.23 & 24 of 2018

Principal Commissioner of Income Tax 1,
No.63, Race Course Road,
Coimbatore. ... Appellant/Appellant in both the appeals

Vs

M/s.Chiranjeevi Wind Energy Ltd.,
No.45/3A, Arts College road Lane,
Opp. Bala Lodge, Coimbatore - 641 018.
PAN: AAACC 8761H ...Respondent/Respondent in both the appeals

COMMON PRAYER: Tax Case Appeals filed under Section 260A of Income Tax Act, 1961 against the order dated 10.07.2017 in ITA No.319/Mds/2015 & 2324/Mds/2016 and ITA No.442/Mds/2015 & 2468/Mds/2016 on the file of the Income Tax Appellate Tribunal Chennai 'C' Bench for the assessment years 2010-11 & 2011-12, against the Order of Commissioner of Income Tax (Appeals)-1, coimbatore,dated 29.04.2016, 07.11.2004 in A.Nos.146/14-15, 172/13-14, for the assessment year 2011-12 and 2010-2011 and arising out of the Assessment Orders of Deputy Commissioner of Income Tax, Company Circle-I(1), Coimbatore, dated 31.03.2014 & 28.03.2013 in PAN Nos.AAACC8761H & AAACC8761H for the Assessment year 2011-12 and 2010-11 respectively.

For Appellant : Mr.T.R.Senthil Kumar
For Respondent : Mr.Venkata Narayanan for M/s.Subbaraya Aiyar padmanaban

C O M M O N J U D G M E N T
(Order of the Court was delivered by N.KIRUBAKARAN, J)

These tax case appeals have been filed against the order of the Income Tax Appellate Tribunal dated 10.07.2017 in ITA No.319/Mds/2015 & 2324/Mds/2016 and ITA No.442/Mds/2015 & 2468/Mds/2016 in dismissing the appeals filed by the Department of revenue and partly allowing the appeals filed by the assessee.

2.Heard Mr.T.R.Senthil Kumar, learned Counsel for the appelant and Mr.Venkata Narayanan, learned Counsel for the respondent.

3.These appeals are admitted on the following substantial questions of law;

> "(i)Whether the Appellate Tribunal was right in holding that the advance money paid by the assessee to purchase of Cranes, which was neither delivered to the assessee nor recovered from the purchaser is business loss allowable as a deduction in the course of the business to the assessee?
>
> (ii)Whether the Appellate Tribunal was right in relying upon the judgement of the Hon'ble High Court in the case of CIT Vs.Indian Biselers [181 ITR 69], when the cited case is clearly distinguishable from the instant case on all merits?
>
> (iii)Whether the Appellate Tribunal was right in not considering the Judgment of the Hon'ble Jurisdictional high Court in the case of Kwality Fun foods and Restaurants (P) Ltd., Vs. DCIT wherein it was held that, 'if the amount advanced was incurred towards cost of acquiring profit earning apparatus, it is not allowable as revenue loss?"

4.Mr.T.R.Senthil Kumar, learned Senior Standing Counsel appearing on behalf of the appellant would submit that the tax effect in this case is 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 this case, tax effect is less than Rs.1 crore and therefore, the appeals have to be dismissed.

5.This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the Circular, which prescribes monetary limit for filing appeal. Paragraph No.2 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"

6.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 question of laws framed are 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(CS-VIII)

// True Copy//

Sub Assistant Registrar

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To

1.Principal Commissioner of Income Tax 1,
No.63, Race Course Road, Coimbatore.

2.The Income Tax Appellate Tribunal,
Chennai 'C' Bench, Chennai.

3.Income Tax Appeal-I, Coimbatore.

4.The Deputy Commissioner of Income Tax company Circle-I(1),
Coimbatore.

+1CC to Mr.Subbaraya Aiyar Padmanabhan, Advocate, SR.No.98521.
+1CC to Mr.T.R.Senthil Kumar, Advocate, SR.No.98523.

T.C.A.Nos.23 & 24 of 2018

VBA(CO)
CSR:20/01/2020