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 Nos.432 & 433 of 2016

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

Vs

M/s.Atlas Metal Processors Pvt. Ltd., Chennai-119. ..Respondent/Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 09.10.2015 made in ITA.Nos.1502 and 1503/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench respectively for the assessment years 2010-11 and 2011-12.

Against the Common Order dated 23/03/2015 made in ITA.No. 150/13-14/A-1 New ITA.265/CIT (A) 1/2013-14 and ITA .No. 127/14-15/A-1 New No.ITA. 222/CIT (A) - 1/2014-15 on the file of the Commissioner of Income Tax (Appeals) -I, Chennai respectively for the assessment years 2010-11 and 2011-12 against the order 11.03.2011 and 18.03.2014 made in GIR / PAN: AAACA741G and AAACA 7401 Q on the file of the Income Tax Officer, Company Ward - I (i), Chennai - 34 respectively for the assessment years 2010-2011 and 2011-12.

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

Respondent :Not ready in notice

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

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

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order

dated 09.10.2015 made in ITA.Nos.1502 and 1503/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench respectively for the assessment years 2010-11 and 2011-12.

3. The appeals was admitted on 12.7.2016 on the following substantial questions of law :

> "i. Whether, on the facts and circumstances of the case, the Tribunal was right in dismissing the departmental appeal without appreciating the fact that no new undertaking was set up by the assessee, which is contrary to the provisions of Section 10B ?
>
> ii. Whether, on the facts and circumstances of the case, the Tribunal was right in allowing deduction under Section 10B of the Income Tax Act? and
>
> iii. Is not the finding of the Tribunal perverse especially when no new unit was formed by the assessee and the claim made was on account of transfer of assets from old DTA unit, on which, the assessee had already claimed 80IA deduction ?"

4. The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 the respective cases is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeals are dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect in the respective cases 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 appeals 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 'D' Bench.

2. The Commissioner of Income Tax,
Chennai.

3.The Commissioner of Income Tax,
(Appeals) -1, Chennai.

4.Income Tax Officer,
Company Ward - I (1),
Chennai - 34.

+1cc to Mr.T.Ravi Kumar, Advocate, S.R.No.75258

RS

TCA.Nos.432 & 433 of 2016

VBA(CO)
GN(18/11/2019)