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.441 of 2016

The Commissioner of Income Tax,
Corporate Circle 3(2), Chennai-34 ...Appellant

Vs

M/s.Vimkar Contract Works Pvt.
Ltd., Chennai-28. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 07.8.2015 made in ITA.No.1329/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2010-11.

against the order of the Commissioner of Income Tax (Appeals I) 121, Mahatma Gandhi Road, Chennai - 600 034, Old ITA.No. 1714/13-14 New ITA.No. 606/CIT (A) - 11 /2013-14 dated 12/03/2015 PAN AABCV3911H for the Assessment year 2010-11 and against the order of the Assistant Commissioner of Income Tax, Company Circle - III (4), Chennai 34 dated 28/02/2013 GIR.No/PAN.AABCV 3911H for the Assessment Year 2010-11.

For Appellant: Mr.M.Swaminathan, SSC assisted by Ms.V.Pushpa, SC

For Respondent: Mr.K.Vaitheeswaran



JUDGMENT

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel appearing for the appellant - Revenue and Mr.K.Vaitheeswaran, learned counsel appearing for the respondent - assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 07.8.2015 made in ITA.No. 1329/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2010-11.

3. The appeal was admitted on 28.6.2016 on the following substantial questions of law :

> "(i) Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the assessee is entitled to the benefit of Section 80IB(4) even though the assessee company is manufacturing the good only as a work contractor in the premises rented out by the principal and that too, under the supervision of the principal? and
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> (ii) Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the Explanation at the end of Section 80IA, which states that a person, who executes works contract, could not be given the benefit, cannot be made applicable to cases that fall under Section 80IB ?"

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. No costs.



Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Rs

To

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

2. The Commissioner of Income Tax,
Company Circle III (4), Chennai - 34.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No. 75843

TCA.No.441 of 2016

AD(CO)
GN(13/11/2019)