IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2019

CORAM :

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

Tax Case Appeal No.27 of 2018

Principal Commissioner of Income Tax 2,
No.63, Race Course Road,
Coimbatore. ... Appellant

-vs-

M/s.The Zigma Technologies (I) (P) Ltd.,
No.747, Amar Complex, S.K.C.Road,
Erode-638 001.
PAN : AAC CT 0611K ... Respondent

Appeal under Section 260A of the Income Tax Act, 1961 against the order dated 03.04.2017 made in I.T.A.No.694/Mds/2016 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2011-12, against the order of the Commissioner of Income Tax (Appeals)-3 Coimbatore dated 28.12.2015 and against the order of the Assistant Commissioner of Income Tax Circle-I, Erode dated 28.08.2014.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel

For Respondent: Mr.A.S.Sriraman

JUDGMENT

(Judgement of the Court was delivered by T.S.Sivagnanam, J.)

This appeal, by the appellant/Revenue filed under Section 260A of the Income-tax Act, 1961, is directed against the order of the Income Tax Appellate Tribunal 'D' Bench, Chennai, dated 03.04.2017, in I.T.A.No.694/Mds/2016 for the assessment year 2011-12.

2.The above appeal has been filed raising the following substantial question of law:-

"Whether the Tribunal is correct in deleting the penalty levied under Section 271(1)(c), when the assessee made excess and wrong claim of 100% depreciation on the "Temporary Structure" in the leased premises whereas the assessee is entitled only of 10% depreciation?"

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the appellant/Revenue; and Mr.A.S.Sriraman, learned counsel for the respondent/assessee.

4.The learned Senior Standing Counsel for the Revenue submits that the appeal is not being pursued by the Revenue on account of low tax effect in the light of the Circular No.3 of 2018, dated 11.07.2018.

5.Thus, by applying the above Circular, this tax case appeal stands dismissed on the ground of low tax effect and the substantial question of law, framed for consideration, is left open. The Revenue is at liberty to seek for restoration of appeal if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar abr

To

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

2.The Commissioner of Income-tax (Appeals)-3,
Coimbatore.

3.The Assistant Commissioner of Income-tax (Circle-1),
Erode-638 001.

+1cc to Mr.T.R.Senthilkumar, Advocate Sr.45570
+1cc to Mr.S.Sridhar, Advocate Sr.45232

T.C.A.No.27 of 2018

mp[co]
srg 16/07/2019