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 Nos.321 and 322 of 2018

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

Vs

M/s.Blow Packaging (India) Pvt. Ltd.,
No.55-D, SIDCO Industrial Estate, Ambattur,
Chennai - 600 098.
PAN: AAACB3145L ...Respondent/Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 26.09.2017 made in ITA.Nos.2288/Mds/2016 and 336/Mds/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment years 2003-04 and 2004-05 against the order dated 24.11.2016 made in New No. DITA.42KIT(A)-1/2009-2010(ITA 657/2009-2010) on the file of the Commissioner of Income Tax, Chennai for the Assessment year 2004-2005 against the order dated 12.05.2016 made in I.T.A. No. 283/2008-2009/A-III(New No. ITA.Nos.53/CIT (A)-1/2008-2009) on the file of the Commissioner of Income Tax (Appeals) Chennai 34 for the Assessment year 2003-2004 against the order dated 31.12.2009 made in AAACB3145L on the file of the Assistant Commissioner of Income Tax, Company Circle -I(2)(I/C) chennai 34 for the Assessment year 2004-2005 and against the order dated 11.12.2008 made in AAACB3145L/BX6-384 on the file of the Income Tax Officer(OSD) Company Circle 1(2) Chennai for the Assessment year 2003-2004.

For Appellant:Mr.T.Ravikumar, SSC assisted by
Ms.R.Hemalatha, SSC

For Respondent:No appearance



COMMON JUDGMENT

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel assisted by Ms.R.Hemalatha, learned 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 26.09.2017 made in ITA.Nos.2288 and 336/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment years 2003-04 and 2004-05.

3.The appeals were admitted on 26.06.2018 on the following substantial questions of law :

> "i.Whether the Tribunal erred in law substantially in holding that the respondent assessee had not lost its character of small scale undertaking as per Section 11B of the Industries (Development and Regulation) Act, 1951 and was, hence, eligible for claiming deduction under Section 80IB of the Income Tax Act, 1961, even though the total investment in plant and machinery in its two units had exceeded the threshold limit set by the relevant statutory provisions?
>
> ii.Whether the Tribunal erred in law in holding that if an assessee satisfied the conditions of being a small scale industrial undertaking in the first year, it was not necessary for the assessee to satisfy the conditions in each subsequent year of claim?"

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. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To
1.The Income Tax Appellate Tribunal, Chennai 'B' Bench.

2.The Commissioner of Income Tax (Appeals)I, Chennai 34.

3.The Assistant Commissioner of Income Tax, Company Circle-1(2) (I/C) Chennai 34.

+1 CC to Mr.T.Ravikumar, Advocate sr 73654.

TCA.Nos.321 and 322 of 2018

SR(CO)
SP(06/11/2019)