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.442 TO 445 OF 2018
AND C.M.P.NOS.9796 TO 9798 OF 2018
IN T.C.A.NOS.443 TO 445 OF 2018

Principal Commissioner of Income Tax 6,
No.121, Nungambakkam High Road,
Chennai - 600 034. ...Appellant

Vs

M/s.Sri Krishna Tiles & Potteries Pvt. Ltd.,
A-1, Kumara Vijayam Flats, Opp.Vidhya Mandir,
99, R.H.Road, Mylapore, Chennai - 600 004.
PAN: AADCS4844G ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 30.03.2017 made in ITA.Nos.2023 and 2024/Mds/2016 and C.O.Nos.118 and 119/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment years 2012-13 and 2011-12 and 2012-13 & 2011-12 respectively against the order dated 09.03.2016 and 16.03.2016 made in ITA.No.48/CIT(A)-15/14-15 and ITA.No.281/CIT(A)-15/14-15 passed by the Commissioner of Income Tax (Appeals)-15, Chennai-600 034 and against the order dated 13.03.2015 and 28.03.2014 passed by the Deputy Commissioner of Income Tax, Company Circle VI(2), Chennai for the Assessment year 2012-13 and the Deputy Commissioner of Income Tax, Company Circle VI(4) Chennai for the Assessment Year 2011-12 respectively.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani

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

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned 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 30.03.2017 made in ITA.Nos.2023 and 2024/Mds/2016 and C.O.Nos.118 and 119/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment years 2012-13 and 2011-12.

3.The appeals have been filed by raising the following substantial questions of law :

> "[for the Asst. year 2011-12 & 2012-13]
>
> 1.Whether the Tribunal was right in remitting the issue of investment made in sister concerns are not liable for disallowance u/s.14A when the provisions of the said section as well as Rule 8D does not provide for any such exception?
>
> 2.Whether the Tribunal was right in remitting the disallowance u/s.14A holding that free funds in the form of reserves and surplus held by the assessee is more than the investment made in assets yielding exempt income, when the assessee was maintaining mixed bag of funds and failed to substantiate that such investment in assets yielding exempt income are out of interest free funds?
>
> [for the Asst. Year 2011-12 only]
>
> 3.Whether the Appellate Tribunal was right in remitting the issue to the Assessing Officer to verify the interest free loans given to sister concerns were out own funds or borrowed funds without considering the jurisdictional High Court judgment in the case of K.Somasundaram & Bros vs. CIT reported in 238 ITR 939 (Mds)?
>
> 4.Whether the Appellate Tribunal was right in following Punjab & Haryana High Court judgment in the case of CIT vs- Abhishek Industries Ltd. which is explicitly over ruled by Hon'ble Supreme Court in 298 ITR 298 in the case of Manjil Sales Corporation?"

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. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cse

To

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

2. The Commissioner of Income Tax (Appeals)-15,
Chennai-600 034.

3. The Deputy Commissioner of Income Tax,
Company Circle VI(2), Chennai.

4. The Deputy Commissioner of Income Tax,
Company Circle VI(4), Chennai.

+1cc to Mr.T.R.Senthilkumar, Advocate, S.R.No.74188

TCA.Nos.442 to 445 of 2018
and C.M.P.Nos.9796 to 9798 of 2018
in T.C.A.Nos.443 to 445 of 2018

SAI(CO)
CS/31/10/2019