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.768 & 769 of 2016 & CMP.No.16986 of 2016

The Commissioner of Income Tax, Chennai ...Appellant

Vs

M/s.Carborandum Universal Ltd., Chennai-1. ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 01.1.2016 made in ITA.Nos.250 and 298/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2002-03 and against the Order dated 31.10.2014 made in ITA No.56/09-10/LTU(A) passed by the Commissioner of Income Tax (Appeals), Large Tax payer Unit, Chennai and against the Order dated 16.12.2009 passed by the Addl. Commissioner of Income tax, LTU, Chennai for the Assessment Year 2002-03.

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

For Respondent:Mr.R.Venkatanarayanan for
M/s.Subbaraya Aiyer Padmanabhan

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 and Mr.R. Venkatanarayanan, learned counsel appearing for the respondent - assessee.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated 01.1.2016 made in ITA.Nos.250 and 298/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2002-03.

3. The appeals were admitted on 01.11.2016 on the following substantial questions of law :

> "TCA.No.768 of 2016 :
>
> i. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the deduction under Section 80HHC can be allowed even without reducing the deduction under Section 80IA ? and
>
> ii. Is not the finding of the Tribunal bad by considering the provisions of Section 80IA(9), which was introduced with effect from 01.4.1999?
>
> TCA.No.769 of 2016 :
>
> Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the miscellaneous income is to be excluded on net basis especially when the assessee has included all its income under the head 'business' only and therefore, the net component could be determined?"

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, the connected CMP is also dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax
(Appeals), Large Tax
payer Unit, Chennai

3.The Addl. Commissioner of
Income tax, LTU, Chennai.

+1cc to Mr.T.Ravi Kumar, Advocate, SR.No.75268
+1cc to M/s.Subbaraya Aiyar Padmanabhan, Advocate, SR.No.75928

TCA.Nos.768 & 769 of 2016
& CMP.No.16986 of 2016

Kak(19/11/2019)