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.816 of 2016

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

Vs

M/s.Agile Electric Sub Assembly Pvt. Ltd. (formerly Agile Electric Drives Technologies & Holdings Pvt.Ltd.), Chennai-45. ...Respondent/ Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 02.5.2016 made in ITA.No.1896/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2009-10 against the Commissioner of Income Tax (Appeals)-I ,Chennai dated 18.03.2014 made in ITA.No 451/11-12/A-1 and

Against the Joint Commissioner of income Tax (OSD), Company Circle -I(1) chennai 34, dated 23.12.2011 made in GIR/PAN AX -7106/AABC 11820 Q.

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

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. Sivaraman, 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 02.5.2016 made in ITA.No. 1896/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2009-10.

3. The appeal was admitted on 11.1.2017 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the provisions of Section 14A are not applicable in respect of investments made for acquiring the shares of sister concerns ? and
>
> ii. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in not appreciating the fact that once the nexus is established between the exempted income bearing investments under Section 10 and interest bearing funds when the provisions of Section 14A are attracted irrespective of the receipt or accrual of exempt income, then the Assessing Officer is bound to apply Rule 8D for arriving at exempt income ?"

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)

//True Copy//

Sub Assistant Registrar

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

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

3.The Joint Commissioner of income Tax (OSD),
Company Circle -I(1) chennai 34

+1cc to Mr.T.Ravikumar , Advocate SR.No. 75262

TCA.No.816 of 2016

A.SK(15/10/2019)