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 No.426 of 2018

Commissioner of Income Tax,
Circle-I, Virudhunagar. ...Appellant/Appellant

Vs

M/s.Madras Cements Limited,
C/o.Jagadisan & Co.
Chartered Accountants,
No.245, TTK Road, Residency Apartments,
Alwarpet, Chennai - 600 018.
PAN: AABCM8375L ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 07.04.2017 made in ITA.No.1111/MDS/2001 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 1997-98 against the order of the Commissioner of Income Tax (Appeals) Madurai dated 25.04.2001 made in Appeal No. 55/2000-2001 against the Joint Commissioner of Income Tax Special Range I, Madurai dated 24.03.2000 made in P.A. No. 47-016-CV.4019 Assessment year 1997-1998.

For Appellant : Mr.M.Swaminathan, SSC
and Ms.V.Pushpa, SC

For Respondent: Mr.P.J.Rishikesh

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

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel, and Ms.V.Pushpa, learned Standing Counsel appearing for the appellant/revenue and Mr.P.J.Rishikesh, 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 07.04.2017 made in ITA.No.1111/MDS/2001 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 1997-98.

3.The appeal was admitted on 21.06.2019 on the following substantial questions of law :

> "Whether the Tribunal was right in holding that the assessee is entitled to 100% depreciation on Fly ash handling system when the same was only a storage system and it was also categorized as Plan and Machinery?
>
> 2. Whether the Tribunal was right in holding that the cost of construction incurred for Vallalar causeway as revenue expenditure when the above said expenditure was made to obtain enduring benefit for the asessee company?
>
> 3. Whether the Tribunal was right in holding that the replacement of Rotor represents revenue expenditure, without noting the Rotor itself constitutes an independent machine with independent function and replacement of the same will amounts to capital expenditure?"

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.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

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To

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

2.The Commissioner of Income Tax (Appeals) Madurai

3.The Joint Commissioner of Income Tax
Special Range I, Madurai

+1 CC to Mr.M.Swaminathan, advocate sr 74847
+1 CC to Mr.P.J.Rishikesh, Advocate sr 74468

TCA.No.426 of 2018

VGII(CO)
SP(05/11/2019)