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.427 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.1553/MDS/2006 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2002-2003 against the order of the Commissioner of Income Tax (Appeals) II, Madurai dated 22.03.2006 made in I.T.A. 092/2005-2006 against the Assistant Commissioner of Income Tax Circle I, Virudhunagar dated 28.03.2005 made in PAN/GIR No. AABCM8375L/M-117 Assessment year 2002-2003.

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.1553/MDS/2006 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2002-2003.

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

> "Whether the Tribunal was right in holding that the expenditure incurred by the assessee for conversion of Meter Gauge Railway siding to Broad Gauge Railway siding is allowable expenditure when the same is not a business expenditure but capital in nature?"

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 question of law framed is 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

To

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

2.The Commissioner of Income Tax (Appeals)II
Madurai 625 002.

3.The Assistant Commissioner of Income Tax
Circle I, Virudhunagar
+1 CC to Mr.P.J.Rishikesh, Advocate sr 74468.

TCA.No.427 of 2018

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