IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.56 & 57 of 2018

Principal Commissioner of Income Tax 1,
No.63, Race Course Road,
Coimbatore.

...Appellant in both the appeals

-vs-

M/s.Craftsman Automation Pvt. Ltd.,
No.15, LML Colony, Pappanaickenpalayam,
Coimbatore - 641 018.

...Respondent in both the appeals

Tax Case Appeals filed under Section 260-A of the Income Tax Act, 1961 are directed against the order of the Income Tax Appellate Tribunal Chennai 'B' Bench, dated 12.05.2017 in ITA No.19/Mds/2012 & ITA No.1835/Mds/2012 for the Assessment years 2004-05 and 2003-04 respectively. against the Order of the Commissioner of Income Tax (Appeals)-I, Coimbatore, in Appeal No.179/0-10 and Appeal No.43/11-12, dated 28.10.2011 and 31.07.2012 for the Assessment year 2004-2005 and 2003-2004 respectively preferred against the order of the Assistant Commissioner of Income Tax, Company circle-IV(1)-Coimbatore in PAN NO.AABCC2461C dated 29.12.2006 and 29.03.2006 for the Assessment year 2004-2005 and 2003-2004 respectively.

For Appellant : Mr.T.R.Senthil Kumar, SSC
assited by Mrs.K.G.Usha Rani
(in both the appeals)
For Respondent : Mr.A.S.Sriraman
(in both the appeals)

COMMON JUDGMENT

[Common Judgement of the Court was made by T.S.Sivagnanam, J.]

These Tax Case Appeals by the appellant/Revenue are directed against the common order of the Income Tax Appellate

Tribunal Chennai 'B' Bench, dated 12.05.2017 in ITA No.19/Mds/2012 & ITA No.1835/Mds/2012 for the Assessment years 2004-05 and 2003-04 respectively.

2.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the appellant/Revenue in both the appeals and Mr.A.S.Sriraman, learned counsel for the respondent/assessee in both the appeals.

3.These Appeals have been filed raising the following Substantial Questions of Law:

> "(i)Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in upholding the chartered Engineer's certificate when the criteria and method adopted by the chartered Engineer is applicable for textile mills only, which is not applicable and relevant to the present case where the assessee is involved in production of various non-homogeneous products using different types of machines?
>
> (ii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in holding that the Chartered Engineer's certificate is to be taken into consideration for arriving at the installed capacity when the report under consideration itself was only a post mortem report as it is practically impossible for any expert in the field to give a correct estimate on the capacity increase from the period 2002-03 to the period 2003-04, after even seven years, i.e., in the year 2009?"

4.We have perused the order of Assessment as well as the common order passed by the Commissioner of Income Tax and we find that the tax effect in these appeals are lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matters. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue these Appeals in view of the low tax effect. Hence, these Appeals are dismissed and the Substantial Questions of Law, framed for consideration, are left open. No costs. The Revenue is at liberty to seek for restoration of appeals, if at a later point of time, it is found that the tax effect is above the threshold limit.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. Income Tax Appellate Tribunal Madras 'B' Bench, Chennai.

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

3. The Assistant Commissioner of Income Tax
   Company circle-IV(1), Coimbatore.

+1cc to M/s.T.R.S.Senthil Kumar, Advocate, S.R.No.45756

Tax Case Appeal No.56 & 57 of 2018

BP(CO)
RV(02/12/2020)