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.627 of 2018

Principal Commissioner of Income Tax,
D.P. Thottam, Muthialpet,
Puducherry. .. Appellant / Respondent

-vs-

M/s.Leo Fasteners,
Rep. by its Partner,
A-27A, Industrial Estate,
Thattanchavady, Pondicherry - 605 009.
PAN: AABFL 0652J .. Respondent / Appellant

Appeal under Section 260A of the Income-tax Act, 1961 against the order dated 31.08.2017 on the file of the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.736/MDS/2012 for the assessment year 2008-09, and against the Order of the Commissioner of Income Tax (Appeals)-XII, Chennai - 34, dated 23/03/2012, made in ITA No.179/2010-11 and against the Order of the Additional Commissioner of Income TAx, Pondicherry Range, Pondicherry dated 30/12/2010, made in P.A.No/G.I.No.AABFL0652J/ L-303.

For Appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel
: M/s.K.G.Usharani

For Respondent : M/s.J.Sreevidhya

******

JUDGMENT

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

This appeal, filed by the appellant/revenue under Section 260A of the Income-tax Act, 1961 (hereinafter referred to as “the Act”), is directed against the order dated 31.08.2017 passed by the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.738/MDS/2012 for the assessment year 2008-09.

2.The above appeal was admitted on 04.09.2018 on the following substantial question of law:-

> "Whether the Appellate Tribunal is correct in law by relying upon the case of Velayudhasamy Spinning Mills Pvt. Ltd. vs. ACIT when the core facts of the said case are different from those of the present matter which involves aggregation of profits/losses of all the eligible business units for quantifying the amount of deduction u/s.80IA of the Income Tax Act?"

3.The revenue does not disputed the position that in the assessee's own case, the Division Bench of this Court in the judgment reported in [2017] 84 taxmann.com 6(Madras) decided the Substantial Question of law against the revenue. This decision was appealed by the revenue before the Hon'ble Supreme Court, which appeal was dismissed in the decision reported in [2018] 95 taxmann.com 18(SC).

4.In the light of the above, the appeal filed by the revenue is dismissed and the substantial question of law is answered against the revenue. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cse

To

1) The Income-tax Appellate Tribunal - C Bench,
Chennai.

2) The Commissioner of Income Tax (Appeals)-XII,
Chennai - 34.

3) The Additional Commissioner of Income TAx,
Pondicherry Range, Pondicherry

+1 cc to M/s.T.R.Senthil Kumar, Advocate, S.R.No.74198

+1 cc to M/s.J.Sree vidya, Advocate, S.R.No.74231

T.C.A.No.627 of 2018

BR(CO)
SSM(16/10/2019)