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.703 of 2018

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

Vs

M/s.Auro Mira Energy Company Pvt. Ltd.,
Room No.25, First Floor, Doran Complex,
37, Damodharan Street, T.Nagar, Chennai - 600 017.
PAN: AAFCA4760M ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 18.01.2018 made in ITA.No.1960/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2011-12 and against the order of the Commissioner of Income Tax (Appeals)121 Mahathma Gandhi Road, Nungambakkam, Chennai 34 made in I.T.A. No. 285/14-15(New No. ITA 135/CIT(A)-1/2014-2015) dated 04.04.2016 as against the order of the Deputy Commissioner of Income Tax, Company Circle-1 (1) Chennai in GIR/PA-AX-7078 AAFCA4760M dated 28.03.2014 for the Assessment year 2011-2012.

For Appellant : Mr.T.Ravikumar, SSC
and Ms.R.Hemalatha, SSC

For Respondent: Unserved Notice

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel, and Ms.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant/revenue.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 18.01.2018 made in ITA.No.1960/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2011-12.

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3.The appeal has been filed by raising the following substantial questions of law :

"1.Whether the Tribunal was right in restricting the disallowance made u/s.14A read with Rule 8D by excluding the investments made in the subsidiary company especially when there is no provision under the Act for excluding the same?

2.Whether the Tribunal ought to have applied the decision of the Apex Court in the case of Maxopp Investments Limited reported in 402 ITR page 640 wherein it had been held that Section 14A read with Rule 8D would apply and disallowance are to be made when the main purpose of investing in shares was to gain control over the investee company while decided the issue in favour of the Department?

3.Whether the Tribunal was correct in law in deleting the disallowance of Rs.40,73,644/- made towards provision for investments especially when the Assessee failed to furnish any evidence to support its claim?"

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.

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-s/d-
Assistant Registrar(CS-I)

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Sub-Assistant Registrar

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To

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

2.The Commissioner of Income Tax(Appeals)
121, Mahathma Gandhi Road
Nungambakkam, Chennai 34.

3.The Deputy Commissioner of Income Tax Company Circle-1(1)
Chennai

+1 CC to Mr.T.Ravikumar, Advocate sr 73684.

TCA.No.703 of 2018

SPD(CO)
SP(22/10/2019)

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