IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

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

Tax Case Appeal No.769 of 2014

The Commissioner of Income tax,
Chennai. .. Appellant

-vs-

M/s.Lason India Pvt Ltd.,
Dowlath Towers,
8-12, Floors No.59, 61 & 63,
Taylors Road, Kilpauk,
Chennai-600 010. .. Respondent

APPEAL under Section 260A of the Income-tax Act, 1961 against the order dated 02.04.2012, made in I.T.A.No.1696(Mds)/2011 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2004-05, against the order dated 15/07/2011 made in ITA.No.740/06-07/A-III on the file of the Commissioner of Income Tax Appeals III, 121, Mahatma Gandhi Road, Chennai -34 against the order dated 28/12/2006 vide PAN.No.AABCV3563H on the file of the Commissioner of Income Tax, Company Circle -II(4), Chennai - 34 for the Assessment year 2004-05.

For Appellant : Mr.Karthik Ranganathan,
Senior Standing Counsel
: assisted by Mr.S.Rajesh,
Standing Counsel

For Respondents : Mr.R.Venkatanarayana
For M/s.Subbaraya Aiyar,
Padmanabhan & Ramamani

Judgment delivered by T.S.Sivagnanam, J.

This appeal filed by the Revenue under Section 260A of the Income-tax Act, 1961 is directed against the order dated 02.04.2012, made in I.T.A.No.1696(Mds)/2011 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2004-05.

2.The above appeal was admitted on 25.09.2014, on the following substantial questions of law:-

> "(i) Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in not considering the provisions of Section 10B(6)(ii) of the Income Tax Act which was specifically inserted with retrospective effect from 01.04.2001 debarring the claim of carried forward of losses?
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> (ii) Whether on the facts and circumstances of the case, the Tribunal was right in coming to the conclusion that "such loss relates to the business of the undertaking" in Section 10B(6)(ii) as export business and not the domestic trading activity for the purpose of carried forward of losses?
>
> (iii) Whether on the facts and circumstances of the case, the Tribunal was right in upholding the order of the CIT(A) in allowing the claim of set off of losses pertaining to domestic unit for the Assessment Year 1997-98 to 2000-01 amounting to Rs.88.77 lakhs as against the current year profit of the undertaking?"

3.Heard Mr.Karthik Ranganathan, learned Senior Standing Counsel assisted by Mr.S.Rajesh, learned Standing Counsel for the appellant - and Mr.R.Venkatanarayan, learned counsel for M/s.Subbaraya Aiyar, Padmanabhan and Ramamani, for the respondent.

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 08.08.2019 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax Appeals-III,
121, Mahatma Gandhi Road, Chennai -34

3.The Assistant Commissioner of Income Tax,
Company Circle -II(4), Chennai 34.

+1cc to M/s.Subbaraya Aiyar, Advocate Sr.No.73377

AKM/19.11.19 /3P-5C/

T.C.A.No.769 of 2014