IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2019

CORAM :

THE HON'BLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case (Appeal) No.96 of 2014

Commissioner of Income Tax,
Coimbatore. .. Appellant

-vs-

M/s.Vijayeswari Textiles Ltd.,
10/400 Palghat Road,
Kuniamuthur,
Coimbatore-641 008. .. Respondent

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961, against the order of the Income tax Appellate Tribunal, 'B' Bench, Chennai, dated 23.08.2011 made in ITA.No.963/Mds/2011,

against the order dated 02/02/2011 made in ITA No.437/2009-2010 on the file of the Commissioner of Income Tax (Appeal)-II, Coimbatore,

against the order dated 30/11/2009 made in PAN/GIR No.AAACV6388F on the file of the Assistant Commissioner of Income Tax, Coimbatore, for the Assessment Year 2006-2007.

For Appellant : Mr.T.R.Senthilkumar
Sr. Standing Counsel
assisted by
Ms.K.G.Usharani
Jr. Standing Counsel

For Respondent : M/s.Meenakshi Sundaram

JUDGMENT

(Delivered by The Hon'ble Acting Chief Justice)

This Tax Case Appeal has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 23.08.2011, for the Assessment Year 2006-07, by raising the following substantial questions of law:

> "1.Whether the Tribunal was correct in holding that the expenditure incurred by the assessee on replacement of electronic yarn cleaner is allowable as revenue expenditure as well as current repair?
>
> 2.Whether under the facts and circumstances of the case the Tribunal was right in holding that the entire payment made for ERP software is for outright purchase of the software and there is no provision for rendering any professional service and therefore 194 J and consequently 40 (a) (ia) do not apply to the case of the assessee?
>
> 3.Whether based on the material available before it the Income Tax Appellate Tribunal could have come to the conclusion that it is not possible to divide the turnkey project into two, one towards the cost of software and another towards cost of implementation of deliverables?
>
> 4.Whether under the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the amount of Rs.3,90,64,745/- written off out of receivable taken over from the sister concern is allowable as business loss?"

2. When the matter is taken up for hearing, the learned Senior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

1. The Registrar,
Income Tax Appellate Tribunal,
Madras "B" Bench,
Chennai.

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

3. The Assistant Commissioner of Income Tax,
Salary Circle I, Coimbatore.

+1cc to Mr.T.R.Senthilkumar, Advocate Sr.83042

T.C.(A) No.96 of 2014

rsv[co]
srg 18/10/2019