IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case Appeal No.175 of 2017

Commissioner of Income Tax
Corporate Circle 2
Madurai .. Appellant/Appellant

Vs.

The Metal Powder Company Limited
Maravankulam
Thirumangalam
Madurai 625 806 ..Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, "C" Bench Chennai, dated 11.8.2016 in ITA No.236/Mds/2016 against the order of Commissioner of Income Tax (appeals)I Madurai dated 27.11.2015 in I.T.A. No. 0139/2014-2015 against the Assessment order dated 26.03.2014 and made in PAN.No. AACT4262E of the Deputy Commissioner of Income Tax Circle I(1) Madurai for the Assessment year 2011-2012.

For Appellant : Ms.Premalatha
Standing Counsel

For Respondent : Mr.A.S.Sriraman

J U D G M E N T
(Delivered by Dr.Vineet Kothari,J)

This Tax Case Appeal have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, "C" Bench Chennai, dated 11.8.2016 in ITA No.236/Mds/2016, by raising the following substantial questions of law:

"(i) Whether on the facts and circumstances of the case and in law, Tribunal was right and justified in holding that each undertaking has to be considered separately for computing the eligible deduction under Section 80IB? and

(ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in confirming the order of the Commissioner of Income Tax (Appeals) holding that profits and gains earned by Aluminium Paste Unit should not be reduced from the loss suffered by Aluminium Alloy Ingot Plant for the purpose of claiming deduction under Section 80IB?"

2. When the matter is taken up for hearing, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 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.50 lakhs.

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 not pressed, keeping open the substantial questions of law for determination in an appropriate case.

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

True Copy

Sub-Assistant Registrar

To
1. Income Tax Appellate Tribunal
"C" Bench, Chennai

2. The Commissioner of Income Tax
Madurai.

3. The Deputy Commissioner of Income Tax
Circle I(1)
Madurai

4. The Commissioner of Income Tax (Appeals I)
V.P.Rathinasamy Nadar Road
Madurai 625 002.

+1 CC to Mr.S.Sridhar, Advocate sr 11017.

TCA No.175 of 2017.

SP(19/03/2019)