IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

CORAM

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

Tax Case Appeal No.384 of 2017

Commissioner of Income Tax,
Salem. .. Appellant

-vs-

M/s.Thambi Modern Spinning Mills,
Omalur Road, Jagir Ammapalayam Post,
Salem-636 302.
PAN: AAACT 7676G .. Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 30.12.2015, made in I.T.A.No.765/Mds/2015 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2011-12.

Appeal against the order dated 24-03-2015 made in ITA NO.235/2013-14 on the file of the commissioner of Income Tax (Appeals) Salem, for the Assessment year 2011-12.

Appeal against the order dated 20-01-2014 made in PAN/GIR NO.AAACT7676G on the file of the Assistant commissioner of Income Tax Circle-I(1), Salem for the Assessment year 2011-12.

For Appellant :Mr.M.Swaminathan,
Senior Standing Counsel
assisted by Ms.V.Pushpa
Standing Counsel

For Respondent :Mr.A.S.Sriraman For Mr.S.Sridhar

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 30.12.2015, made in I.T.A.No.765/Mds/2015 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2011-12.

2.The appeal has been filed raising the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessing authority has no powers to adjust the book profits computation u/s 115JB by relying on the apex court decision in the case of Appollo Tyres Ltd without deciding the main issue as to whether the profit on sale of land has to be credit to the surplus reserve or to the profit and loss accounts under the head capital gains as per the provisions of part II and III of SCH VI of the Companies Act r/w Section 211 of the Companies Act and the Accounting Standards?
>
> (ii) Whether on the facts and in the circumstances of the case, the profit on sale of land has to be credited to the surplus reserve or to the profit and loss accounts under the head capital gains as per the provisions of part II and III of SCH VI of the Companies Act r/w Section 211 of the Companies Act and the Accounting Standards? And
>
> (iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that expenditure on conversion of factory into office premises as revenue expenditure?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel for the appellant - and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned Counsel 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(CCC)

//True Copy//
Sub Assistant Registrar

abr
To

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

2.The Assistant Commissioner of Income Tax,
Circle(1), Salem.

3.The Commissioner of Income Tax(Appeals)
Salem.

+1cc to Mr.M.Swaminathan, Advocate SR.75046
+1cc to Mr.S.Sridhar, Advocate SR.75279

T.C.A.No.384 of 2017

LN(CO)
CB(15/11/2019)