IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

T.C.A.No.944 of 2019

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

Vs

M/s.Sakthi Sugars Ltd.,
180, Race Course Road,
Coimbatore. ...Respondent

PRAYER:
Tax Case Appeal filed under Section 260A of Income Tax Act, 1961 against the order dated 16.03.2000 in I.T.A.No.2096/Mds/1991 on the file of the Income Tax Appellate Tribunal Chennai 'A' Bench for the assessment year 1987-88. and against the O/o Commissioner of Income Tax (Appeals), Coimbatore, and made in I.T.A.No.65C/1990-91 order dated 30.05.1990 and against in Income Tax Department, Coimbatore and made in PAN.NO.47-023-CY-D162, dated 29.02.1990 in the Assessment year, 1987-88.

For Appellant : Mr.T.R.Senthil Kumar

For Respondent : M/s.N.Vijayaraghavan,
for M/s.Subbaraya Aiyar Padmanabhan

J U D G M E N T
(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

This tax case appeal has been filed against the order of the Income Tax Appellate Tribunal dated 16.03.2000 passed in I.T.A.No.2096/Mds/1991 in dismissing the appeal filed by the Department of Revenue against the order of the Commissioner of Income Tax (Appeals) by which the appeal filed by the assessee was partly allowed.

2.Heard Mr.T.R.Senthil Kumar, learned Counsel for the appellant.

3.This tax case appeal is admitted on the following substantial questions of law:

"(i)Whether the Tribunal was right in law in holding that eventhough the assessee did not make the claim in its order, the claim for investment allowance is still amenable for consideration under Sec.154?

(ii)Whether the Tribunal was correct in holding that the grant of investment allowance was possible only after ensuring the creation of the reserve and the availability of profits during the assessment year 1987-88?"

4.Mr.T.R.Senthil Kumar, learned Counsel appearing on behalf of the appellant would submit that the tax effect in this case is less than Rs.1 crore and is covered by Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, Delhi. As per the said circular, the monetary limit to file an appeal before the High Court is fixed at Rs.1 crore. In this case, tax effect is less than Rs.1 crore and therefore, the appeal has to be dismissed.

5.This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the Circular, which prescribes monetary limit for filing appeal. Paragraph No.2 is usefully extracted as follows:

"2.As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

S.No.	Appeals / SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appeallate Tribunal	50,00,000
2.	Before High Court	1,00,00,000
3.	Before Supreme Court	2,00,00,000"

6.In view of the submissions made by the learned counsel appearing on behalf of the appellant and also in view of the Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Delhi, this Tax Case Appeal is dismissed on account of tax effect. However, the substantial questions of law framed are left open. In the event the tax effect is above the 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(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Income Tax (Appeals),
   Coimbatore.

2. The Deputy Commissioner of Income Tax,
   Special Range-I, Coimbatore.

3. The Income Tax Appellate Tribunal,
   Chennai Bench.

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.98522
+1cc to M/s.Subbaraya Aiyar Padmanabhan, Advocate, S.R.No.98833

T.C.A.No.944 of 2019

RR(CO)
CS/09/01/2020