IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2019

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case (Appeal) No.753 of 2017

Commissioner of Income Tax, Chennai. ... Appellant

- Vs -

M/s.S.S.F.Limited (Formerly known as
Southern Sea Foods Ltd.), K-16, First Main Road
Anna Nagar East, Chennai - 600 012
PAN AABCS 0556K ... Respondent

Prayer : Appeal under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal "C" Bench, Chennai in I.T.A.No.1303/Mds/2016 dated 29.07.2016.

Against the Order of the Commissioner of Income Tax, (Appeals)-15 Chennai dated 15.02.2016 made in ITA.No.471/CIT (A)-15/13-14 pertaining to assessment year 2010-2011 against the order under section 143(3) of I.T.Act dated 18.03.2013 passed by the DCIT Company Circle - VI (I), Chennai in PAN.No. AA13CSO556K.

For Appellant : Mr.T.R.Senthil Kumar, Standing Counsel

JUDGMENT
(Judgment of the Court was delivered by T.S.SIVAGNANAM, J.)

This appeal by the Revenue is directed against the order dated 29.07.2016 passed by the Income Tax Appellate Tribunal, Chennai 'C' Bench in I.T.A.No.1303/Mds/2016 for the assessment year 2010-11, raising the following substantial questions of law for consideration.

> "1. Whether on the facts and in the circumstances of the case, the tribunal was right in holding that the unabsorbed depreciation pertaining to the assessment year 1999-2000 to 2001-02, could be set off against

the income of the assessment year 2010-11 in contravention to Section 32(2)(iii)(b) as it stood prior to Finance Act, 2001?

2. Whether on the facts and circumstances of the case, the tribunal was right in holding that unabsorbed depreciation pertaining to assessment year 1999-2000 to 2001-02, could be set off beyond eight assessment years and allow set off against the income of the present asessment year 2010-11?"

2. Mr.T.R.Senthil Kumar, learned Standing Counsel for the appellant Revenue, fairly submits that this appeal is not being pursued by the Revenue on account of low tax effect. In this regard, the learned counsel has placed before us the Circular issued by the Central Board of Direct Taxes viz., Circular No.3/2018, F.No.279/Misc.142/2007-ITJ (Pt), Government of India, Department of Revenue, Central Board of Direct Taxes dated 11.07.2018, wherein there has been a revision of monetary limits for filing of appeals by the Department before the Tribunal / High Court and Special Leave Petitions / Appeals before the Honourable Supreme Court. In terms of the monetary limit fixed in Circular No.3 of 2018, the Revenue would not be entitled to pursue the appeal, if already filed or file fresh appeals for the tax which does not exceed the monetary limit of Rs.50 lakhs.

3. Thus, applying the said circular, the present appeal is dismissed on the ground of low tax effect. Needless to state that the substantial questions of law raised for consideration are left open. No costs.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

KST

To

1. Commissioner of Income Tax,
Chennai

2. The Income Tax Appellate Tribunal,
Chennai "C' Bench.

3. The Deputy Commissioner of Income Tax,
   Company Circle VI (1), Chennai.

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No. 45753

T.C.(A) No.753 of 2017

RGN(CO)
GN(01/08/2019)