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.768 of 2017

Principal Commissioner of Income Tax I,
No.63, Race Course Road,
Coimbatore. .. Appellant

-vs-

M/s.India Trimmings Pvt. Ltd.,
6/636, Pillaippanpalayam,
Telungupalayam Post, Annur,
Coimbatore-641 653.
PAN: AAA CI 6934 N .. Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 29.04.2016, made in I.T.A.No.1865/Mds/2011 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2007-08.

against the order dated 30.08.2011 passed by the Commissioner of Income Tax (A)-I, Coimbatore as against the order of the Assistant Commissioner of Income Tax, Company Circle IV (2), Coimbatore dated 30.12.2010.

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

: assisted by Ms.K.G.Usharani,
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 29.04.2016, made in I.T.A.No.1865/Mds/2011 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2007-08.

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

> "(i) Whether on the facts and circumstances of the case, the Appellate Tribunal was correct in holding that the defect in not passing the draft assessment order u/s.144C(1) of the Act cannot be cured at this stage and therefore the final order passed by the Assessing Officer is null and void and without jurisdiction?
>
> (ii) Whether the Appellate Tribunal was right in not considering the fact that the non issue of draft assessment order u/s.144C of the Act was only a procedural irregularity which can be cured at any stage of the proceedings? and
>
> (iii) Whether the Appellate Tribunal was right in not considering the fact that there is a fine distinction between the orders which are null and void and orders which are irregular, wrong or illegal?"

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, 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 (CS-VI)

//True Copy//

Sub Assistant Registrar

abr

To

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

+1cc to Mr.S.Sridhar, Advocate, S.R.No. 75285
+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No. 75122

T.C.A.No.768 of 2017

PPA(CO)
GN(20/11/2019)