IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

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

Tax Case Appeal Nos.800 to 802 of 2017
and
C.M.P.Nos.20057 & 20058 of 2017

Principal Commissioner of Income Tax 4,
No.121, Mahatma Gandhi Road,
Chennai-600 034. .. Appellant in all Appeals

-vs-

M/s.Mecaplast India P. Ltd.,
P-43, 8th Avenue, Mahindra World City,
Chengleput Taluk, Kanchipuram District.
PAN: AAE CM 2854 M .. Respondent in all Appeals

Appeals under Section 260A of the Income-tax Act, 1961, against the common order dated 15.07.2016, made in I.T.A.Nos.6074, 6075 & 6076/Mds/2011 respectively on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment years 2006-07, 2007-08 and 2008-09 respectively against the order dated 10.02.2010, 08.06.2010 and 25.04.2011 made in Appeal Nos.CIT (A) 20/IX/9(2)I7-101/2009-10, 219/2009-10 and 161/2010-11 respectives by the Commissioner of Income Tax (Appeals) - 20, Mumbai against the Assessment order dated 18.11.2008, 30.09.2009 and 29.10.2010 respectively by the Depputy Commissioner of Income Tax - 9 (2), Mumbai.

For Appellant : Mr.Karthik Ranganathan,
(In all Appeals) Senior Standing Counsel
: assisted by Mr.S.Rajesh,

COMMON JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

These appeals filed by the Revenue under Section 260A of the Income-tax Act, 1961 are directed against the common order dated 15.07.2016, made in I.T.A.Nos.6074, 6075 & 6076/Mds/2011 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment years 2006-07, 2007-08 and 2008-09 respectively.

2.The appeals have been filed raising the following substantial questions of law:-

> "(i) Whether on the facts and circumstances of the case and in law, the ITAT was correct and justified in holding that the assessee is eligible for the claim on revenue expenses and carry forward of losses to be set off against other income under the Income-tax Act, 1961, even though the assessee had not yet set up business?
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> (ii) Whether the ITAT was correct and justified in not appreciating the provisions of Section 3 of the I.T.Act, as per which, in respect of a newly set up business from the date of setting up of business up to the end of the financial year. Since the assessee's business had not yet been set up, therefore, there was no previous year under the head business income. Accordingly, there was no question of computing business income/loss and, therefore, there was no question of allowing any expenses and whether as a result, the order under reference has turned perverse both on facts as well as in law? and
>
> (iii) Whether the ITAT was correct and justified in not following the decisions in the case of Western India Vegetable Products Ltd. vs. CIT (1954) 26 ITR 151 (Bombay) and CWT vs. Ramaraju Surgical Cotton Mills Ltd. (1967) 63 ITR 478 (SC)?"

3.Heard Mr.Karthik Ranganathan, learned Senior Standing Counsel assisted by Mr.S.Rajesh, learned Standing Counsel for the appellant.

4.The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 appeals are 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 appeals to be heard and decided on merits. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

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

2. Principal Commissioner of Income Tax -4,
121, Mahatma Gandhi Road,
Mumbai.

3. The Commissioner of Income Tax (Appeals)-20,
Mumbai.

4. The Deputy Commissioner of Income Tax - 9 (2),
Mumbai.

T.C.A.Nos.800 to 802 of 2017

GJ II(CO)
GN(06/11/2019)