IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2019

CORAM :

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

T.C.A.No.989 of 2019

Commissioner of Income Tax – IV,
Chennai. ... Appellant

Vs

M/s.Gomathy & Co.
Chennai. ... Respondent

PRAYER : Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 30.05.2003 passed in ITA.No.125/Mds/95 against the order of the Commissioner of Income Tax (Appeals VI), Madras, dated 3/10/1994 in made in IT/INT/CIT/Appeal No.129/94-95/Spl.Range VIII and against the order of the Deputy Commissioner of (IT) Spl. Range VIII, Madras, in made in PANGIR No.304-C dated 28.02.1994 for the Assessment Year 1991-92.

For Appellant : Ms.S.Premalatha
Junior standing counsel

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

This Tax Case Appeal has been preferred by the Revenue against the order dated 30.05.2003 passed in ITA.No.125/Mds/95 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 1991-92.

2.The order of the CIT(A) for the assessment year, 1991-92 was challenged before the Tribunal by the Revenue. The Appellate Tribunal rejected the contention of the Revenue and dismissed the same. Against the order of the Appellate Tribunal only, the present appeal has been filed.

3.The appeal is admitted on the following substantial questions of law :

(i)Whether in the facts and circumstances of the case, the Tribunal was right in allowing a deducting of the amounts spent on replacement of old manual coners by new imported auto coners as revenue expenditure/current repairs?

(ii)Whether in the facts and circumstances of the case, replacement of independent complete machinery which resulted in reduction of labour and increase of efficiency/capacity can be treated as revenue expenditure?

(iii)Whether in the facts and circumstances of the case, the Tribunal was right in treating the expenditure as a revenue expenditure, when the claim by the assessee was that it was repairs to existing machinery?

4.Ms.S.Premalatha, learned Standing 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 case has to be dismissed.

5.This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the said Circular, which prescribes monetary limit for filing appeal 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, the Tax Case Appeal is dismissed on account of tax effect. However, the substantial questions of law framed is 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

// True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Income Tax - I,
63, Race Course Road,
Coimbatore 641 018.

2.Income Tax Appellate Tribunal 'B' Bench,
Chennai.

3.The Deputy Commissioner (IT),
Special Range VIII, Madras.

T.C.A.No.989 of 2019

VGII(CO)
CSR: 20/01/2020