IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case Appeal Nos.967 & 968 of 2010

The Commissioner of Income Tax
Chennai. ... Appellant

Vs.

FL Smidth Private Limited
34, Egattoor, Siruseri, OMR
Kelambakkam, Chennai 600 103. ... Respondent

Prayer: Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 08.01.2010 made in ITA No.1532/Mds/09 and 1533/Mds/09.

Appeal against the order dated 08/07/2009 made in ITA.No.11/07-08 and ITA.No.189/08-09 on the file of the Commissioner of Income Tax(Appeals)-II, Chennai for the assessment year 2004-05, 2001-2002, against the order dated 18/12/2006, made in PAN.No./GIN.No.AAACF4817F on the file of the Assistant Commissioner of Income Tax Central Circle III(2), Chennai for the assessment year 2004-2005.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel
For Respondent : Mr.M.P.Senthil Kumar

JUDGMENT
(Judgment Delivered by DR.VINEET KOTHARI,J)

These Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Madras, by raising the following substantial questions of law:

> " 1. Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that interest u/s.234D cannot be charged in respect of the refund granted prior to the insertion of Section 234D, when the regular assessment was completed only subsequent to the insertion of section 234D? And

2. Whether on the facts and in the circumstances of the case, no interest can be charged even for the period subsequent to the introduction of section 234D, merely on the ground that the refund was granted prior to its introduction?”

2. When the matter is taken up for hearing, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeals filed by the Revenue are dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(C.S.IV)

/True Copy

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax(Appeals)-II,
Chennai.

3.The Assistant Commissioner of Income Tax,
Central Circle III(2), Chennai.

+1cc to N.Muthukumar, Advocate, SR.No.10596

AKM/13.03.2020 /2P-5C/