IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2020

CORAM

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

Tax Case Appeal No.30 of 2011

Commissioner of Income Tax
Coimbatore. ... Appellant

Vs.

M/s.Elgi Ultra Industries Ltd.,
Elgi House, Trichy Road,
Coimbatore. ... Respondent

Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'D' Bench, Chennai dated 26.10.2005 passed in I.T.A.No.1790/Mds/2003

Against the order dated 15.07.2003 made in I.T.A.No.219/2000-2001 on the file of the Commissioner of Income Tax (Appeals)I, Coimbatore for the Assessment year 1998-1999.

Against the order dated 08.07.2003 made in I.T.A.No.23/2000-2001 on the file of the Commissioner of Income Tax (Appeals)I, Coimbatore for the Assessment year 1997-1998.

Against the order dated 01.08.2000 made in P.A. No. PAN CV-2237/SR1/CBE on the file of the Joint Commissioner of Income Tax, Special Range-1, Coimbatore for the Assessment year 1998-1999.

Against the order dated 28.02.2000 made in PAN/GIR No. 49-502-CV-2237 on the file of the Joint Commissioner of Income Tax Special Range-1 Coimbatore for the assessment year 1997-1998.

For Appellant : Mrs.K.G.Usha Rani
Junior Standing Counsel

For Respondent : Mr.N.V.Balaji

JUDGMENT
(Judgment of the Court was delivered by DR.VINEET KOTHARI,J.)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, by raising the following substantial questions of law:

"1. Whether on the facts and in the circumstances of the case the Income-Tax Appellate Tribunal was right in law in holding that, the assessee is eligible for deduction under Section 80IA of the Act, even though the assessee is not engaged as such in any Industrial activity of its own except assembling on job work basis?

2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that, the Excise Duty and Sales Tax are to be excluded from the total turnover for the purpose of computing the Income under Section 80HHC of the Income Tax Act, 1961?

2. When the matter is taken up for final 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 08.08.2019, 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 Crore (Rupees One Crore Only).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Sgl
To
1. Income Tax Appellate Tribunal,
'D' Bench, Chennai.

2.The Commissioner of Income Tax Appeals-1, Coimbatore

3.The Joint Commissioner of Income Tax Special Range-1
Coimbatore

+1 CC to Mr.N.V.Balaji, Advocate sr 6894.
+1 CC to Mr.T.R. Senthil Kumar, Advocate sr 6583

T.C.A.No.30 of 2011

RSV(CO)
SP(28/02/2020)