IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.7.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.506 of 2011

The Commissioner of Income Tax, Chennai ...Appellant

Vs

SKM Animal Feeds & Foolds India Ltd., Erode-1. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 15.2.2008 made in ITA.No.2442/Mds/2005 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2002-03. Against the Order dates 10/08/2005 made in Appeal no.232/05-06 on the file of the Commissioner of Income Tax(Appeals)-1 Coimbatore for the assessment year 2002-2003.

Against the order dates 31/3/2005 made in PA NO/GIR NO.AAACCS9493E/2CCS012 on the file of the Deputy Commissioner of Income Tax Circle-1 Erode for the assessment year 2002-2003.

For Appellant : Mr.T.R.Senthilkumar, SSC & Ms.K.G.Usharani, SC

For Respondent: Mr.G.Baskar for Mr.Muthukumar

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel and Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant - Revenue and Mr.G.Baskar, learned counsel appearing for the respondent.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed

against the order dated 15.2.2008 made in ITA.No.2442/Mds/2005 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench (for brevity, the Tribunal) for the assessment year 2002-03.

3. The appeal has been admitted on 09.4.2012 on the following substantial questions of law :

> "i. Whether, on the facts and circumstances of the case, the assessee had not made deliberate suppression of sale by under invoicing of sale with its sister concern without adhering to the agreements and consequent claim of loss to the extent of Rs.51.27 lakhs can be allowed ? and
>
> (ii) Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the claim of loss on account of sale to its sister concern is allowable on commercial expediency ?"

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 08.8.2019 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

//True Copy//

Sub Assistant Registrar

To

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

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

3. The Deputy Commissioner of Income Tax Circle-1, Erode

RSV(CO)
RV(06/10/2020)