IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

CORAM

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

Tax Case (Appeal) No.670 of 2011

The Commissioner of Income-Tax-I,
Coimbatore. ... Appellant

Vs.

M/s.Elgi Ultra Industries Ltd.,
India House, 1239, Tiruchy Road,
Coimbatore-18 PAN AAACE4566G ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal 'C' Bench, Chennai dated 15.06.2011 in ITA No.463/Mds/2011.

Against the order of the Commissioner of Income Tax (I) Coimbatore dated 05.09.2006 and 24.12.2010 Appeal No.314/05-06 and 100/09-10 for the Assessment year 2004-2005.

Against the Order of the Assistant Commissioner of Income Tax Company Circle I(1) Coimbatore dated 27.10.2005 in the Assessment year 2004-05 in PAN.No./GIR.No.AAACE4566G

For Appellant : Mr.T.R.Senthil Kumar,
Ms.K.G.Usha Rani

For Respondent : Mr.N.V.Balaji

J U D G M E N T

(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, 'C' Bench, Chennai, 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 is right in law in holding that the assessee is justified in taking over of debts of its sister concern, though there was no merger or amalgamation, which is obviously a self-serving arrangement and a colorable device?

2. Whether, on the facts and in the circumstances of the case, the Tribunal is correct in observing

that the so written-off amount, if not, allowable as deduction under section 36 (1) (vii) is to be allowed under section 37 (1) of the Act, especially when there is a special provision for deduction of debts?

3. Whether, on the facts and in the circumstances of the case, the Income tax Appellate Tribunal is correct in holding that the bad debts are covered by Section 37 (1) of the Act by relying only on the self serving accounting by the assessee, when the same is not laid out and expended wholly for the business of the assessee?

2. When the matter was 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 is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

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

/True Copy/

Sub Assistant Registrar

To

1.The Assistant Registrar, Income Tax Appellate Tribunal 'C' Bench,Chennai.
2.The Commissioner of Income Tax Appeals I, Coimbatore.
3.The Assistant Commissioner of Income Tax, Company Circle I(1), Coimbatore.

Copy to : 1.The Commissioner of Income-Tax-I, Coimbatore.
2.M/s.Elgi Ultra Industries Ltd., India House, 1239, Tiruchy Road, Coimbatore-18

+1cc to Mr.T.R.Senthil Kumar, Advocate Sr.No.12153

AKM/13.03.2020 /2P-7C/

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