IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.6.2020

CORAM

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

Tax Case (A) No.285 of 2012

The Assistant Commissioner of Income Tax
Coimbatore. Appellant/Respondent

Vs.

M/s.Elgi Ultra Industries Ltd.,
1239, India House, Trichy Road,
Coimbatore 641 018. Respondent/Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'D' Bench, Chennai, dated 2.4.2012 made in ITA No.317/Mds/2011 against the order of the Commissioner of the Income Tax Appeals(1) Coimbatore dated 24/12/10 in Appeal No.236/09-10 against the order of the Assistant Commissioner of Income Tax-Company Circle-1(1), Coimbatore dated 31/12/2009 in PA No/GIR No.AAACE 4566G asst year 2007-2008.

For Appellant : Mr.T.R.Senthilkumar
Senior Standing Counsel
For Respondent : Mr.S.Arunprasad

J U D G M E N T
(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, 'D' Bench, Chennai, dated 2.4.2012 made in ITA No.317/Mds/2011, for the Assessment Year 2007-2008, by raising the following substantial questions of law:

"(i) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was Correct in holding that the 'bad debts' written off by the assessee was a 'business loss' under the Act when the assessee has categorically claimed the write off in its books of accounts to be a write off of debts?

(ii) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that the transaction between the assessee and its sister concern was a 'business endeavor'?

(iii) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that the transaction was not a sham transaction entered into with the sole objective of evading tax, particularly when the respondent has offered a small portion of the income to tax in an earlier year and claiming the entire debt in the phased manner in the subsequent years including the assessment year in appeal?

(iv) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that bad debts written off is allowable under Section 37(1) of the Act when such write off is specifically not allowed as a deduction under Section 36(1)(vii) of the Act?

(v) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that bad debts written off is allowable under Section 37(1) of the Act, since the discount on the debts taken over was assessed as business income in the earlier year?"

2. When the matter is taken up for hearing, learned Senior 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 Appeal filed by the Revenue is dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Assistant Commissioner of Income Tax
   Coimbatore.

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

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

4. The Assisstant Commissioner of Income Tax
   Company Circle-1(1)
   Coimbatore.

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PVS(CO)
KKV/14/07/2020