In the High Court of Judicature at Madras

Dated : 15.6.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Tax Case Appeal Nos.496 to 498 of 2012

Commissioner of Income Tax,
Tirupur ...Appellant /Respondent
in all Tax Case Appeals

Vs

M/s.Cotton Blossom (India) Pvt.
Ltd., Coimbatore ...Respondent/Appellant
in all Tax Case Appeals

Prayer:Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the common order dated 07.5.2012 made in ITA.Nos.1723 to 1725/ Mds/2011 respectively on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment years from 2003-04 to 2005-06 and against the order of the Commissioner of Income Tax(A)-II, Coimbatore dated 28.07.2011, made in ITA.Nos.576C/09-10, 575C/09-10 and 579C/09-10 respectively for the Assessment year 2003-2004 to 2005-2006 and against the order of the Deputy Commissioner of Income Tax Company Circle, Tiruppur, dated 24.11.2009, made in PAN No./GIR.No.AACCC5046R, for the assessment year 2005-2006 and against the order of the Assistant Commissioner of Income Tax Circle-I, Tiruppur dated 25.11.2009, made in PAN.No./GIR.No.AACFC0674L, for the assessment years 2003-2004 and 2004-2005 respectively.

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

For Respondent: Mr.Vikram Vijayaraghvan for
M/s.Subbaraya Aiyer Padmanabhan

COMMON JUDGMENT

(Judgment was delivered by T.S.Sivagnanam,J)

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

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated 07.5.2012 made respectively in ITA.Nos.1723 to 1725/ Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment years from 2003-04 to 2005-06.

3. The appeals were admitted on 23.1.2013 on the following substantial questions of law :

> "1. Whether, under the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in holding that the reopening of the assessment due to change of opinion by the Assessing Officer and therefore, the same is bad in law ?
>
> 2. Whether, under the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in holding that the reopening of the assessment is due to change of opinion by the Assessing Officer, while on the issue for which reopening was made, the Assessing Officer did not form any opinion in the original assessment ? And
>
> 3. Whether, under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the reopening of the assessment was due to change of opinion without noting that the intimation under Section 143(1) is not an assessment and therefore, there is no change of opinion?"

4. The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 the respective

cases is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeals are dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect in the respective cases 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 appeals to be heard and decided on merits. No costs.

Sd/-
Asst.Registrar

/true copy/
Sub Asst. Registrar

To

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

2.The Commissioner of Income-Tax(A)-II,
Coimbatore
3.The Deputy Commissioner of Income Tax
Company Circle, Tiruppur

4.The Accident Commissioner of Income-Tax
Circle-I Tiruppur

TCA.Nos.496 to 498 of 2012

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