IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2020

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

TAX CASE APPEAL NO.1171 OF 2015

Commissioner of Income Tax,
No.63, Race Course Road,
Coimbatore. ...Appellant

-vs-

M/s.Arun Textiles Pvt. Ltd.,
No.80, Perumal Koil Street,
Tirupur-641 604.
PAN: AAB CA 8982 D ...Respondent

Prayer:-

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 19.06.2015 made in I.T.A.No.2174/Mds/2015 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2010-11.

This Appeal filed against the Order of the Income Tax Appellate Tribunal Madras 'D' Bench, dated 19th June 2015 in I.T.A.No.2174/Mds/2015, Assessment Year 2010-11 against the Commissioner of Income Tax (Appeals)II, Coimbatore, dated 30.06.2014 I.T.A.No.115/3-14 in PAN.No.AABCA8982D in Assessment Year 2010-11 against the Deputy Commissioner of Income Tax Company Circle, Tirupur, I.T.No.65 in PAN.No.AABCA8982D, Assessment year 2010-2011.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel &
Ms.K.G.Usha Rani,
Standing Counsel

For Respondent: Served - No appearance

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

We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel and Ms.K.G.Usha Rani, learned Standing Counsel appearing for the appellant-Revenue.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 19.06.2015 made in I.T.A.No.2174/Mds/2015 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2010-11.

3. The appeal was admitted on 09.12.2015, on the following substantial questions of law:-

> "1. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the proceeds realized by the assessee on sale of Certified Emission Reduction Credit, which the assessee had earned on the Clean Development Mechanism in its wind energy operations, is a capital receipt and not taxable?
>
> 2. Whether, in the facts and circumstances of the case and in law, the Appellate Tribunal is correct in holding that sale of Carbon Credits is to be considered as Capital Receipt and not liable for tax under any head of income under Income Tax Act, 1961?
>
> 3. Whether, in the facts and circumstances of the case and in law, ITAT is correct in holding that there is no cost of acquisition or cost of production to get entitlement for the Carbon Credits, without appreciating that generation of Carbon Credits is intricately linked to the machinery and processes employed in the production process by the assessee?"

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.

Sd/-
Assistant Registrar(CO-MDU)

//True Copy//

Sub Assistant Registrar

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To

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

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

3. The Deputy Commissioner of Income Tax, Coimbatore Circle, Tirupur.

TCA.No.1171 of 2015

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