IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.9.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

Tax Case (Appeal) Nos.250 & 251 of 2015

Commissioner of Income Tax,
Chennai. ...Appellant

Vs.

M/s.Atlas Metal Processors Pvt. Ltd.
No.173/3, Old Mahabalipuram Road,
Nehru Street, Sholinganallur,
Chennai 600 119. ...Respondent

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'D' Bench, Chennai, dated 22.11.2013 made in ITA Nos.1307 & 1308/Mds/2013. against the Order of the Commissioner of Income Tax (Appeals III), Chennai, dated 04.02.2013 in ITA TR No.6/2010-11/AIII and 7/2010-2011/AIII in the Assessment year 2006-07 and 2008-2009.

against the Order of the Deputy Commissioner of Income Tax company circle 1(1) Chennai 34 dated 23.12.2010 PA/GIR No.AAACA7401QAX3-103 for the Assessment year 2006-2007, 2008-2009 respectively.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel
For Respondent : No appearance.

COMMON JUDGMENT

(Delivered by DR.VINEET KOTHARI,J)

These Tax Case Appeals have been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'D' Bench, Chennai, dated 22.11.2013 made in ITA Nos.1307 & 1308/Mds/2013, for the Assessment Years 2006-2007 and 2008-2009, by raising the following substantial question of law:

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled to deduction u/s.10B for the Assessment Year under consideration in respect of the old unit, merely on the approval of the Development Commissioner, MEPZ and the Customs Commissioner's approval for bonded warehouse, which do not address issues such as shifting of machinery or bifurcation or reconstruction of existing business?"

2. When the matters are 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 cases, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeals filed by the Revenue are dismissed, as withdrawn, keeping open the substantial question of law for determination in appropriate cases. Copy of this order may be sent to the Assessee. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1. The Income Tax Appellate Tribunal,
   Balaji Bhavan, Besant Nagar, 'D' Bench, Chennai-90.

2. The Commissioner of Income Tax,
   Chennai-34.

3. The Dy Commissioner of Income Tax,
   Company Circle I(1), Chennai-34.

4. M/s.Atlas Metal Processors Pvt. Ltd.
   No.173/3, Old Mahabalipuram Road,
   Nehru Street, Sholinganallur,
   Chennai 600 119.

+1cc to Mr.Ravikumar, Advocate in Sr.30687

T.C.(A) Nos.250 & 251 of 2015

MG(CO)
RV(08/10/2020)