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.472 of 2015
and
M.P.No.1 of 2015

Commissioner of Income Tax,
Company Circle,
Tirupur. ...Appellant/Respondent

-vs-

Sivaraj Spinning Mills (P) Limited,
86, Mangalam Road,
Karuvampalayam,
Tirupur-641 601.
PAN: AADCS0681H ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 31.07.2014 made in I.T.A.No.652/Mds/2013 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2009-10.

Against the Commissioner of Income Tax (Appeals)-II, Coimbatore dated 30.01.2013 made in ITA No.48/11-12 against the Deputy Commissioner of Income Tax Company Circle, Tiruppur, PAN/GIR No.AADCS0681H dated 09.03.2011 for the assessment year 2009-10.

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

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 for the appellant-Revenue and Mr.R.Sivaraman, learned counsel appearing for the respondent-assessee.

2. This appeal, filed by the Revenue under Section 260A of

the Income Tax Act, 1961 is directed against the order dated 31.07.2014 made in I.T.A.No.652/Mds/2013 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2009-10.

3. The appeal was admitted on 22.07.2015, on the following substantial question of law:-

> "Whether on the facts and 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?"

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 question of law framed is 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. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

To
1. The Income Tax Appellate Tribunal 'C' Bench, Chennai.
2. The Commissioner of Income Tax Company Circle, Tiruppur.
3. The Commissioner of Income Tax (Appeals)-II, Coimbatore
4. The Deputy Commissioner of Income Tax Company Circle, Tiruppur.

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