IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2020

CORAM

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

Tax Case (Appeal) No.146 of 2013

The Commissioner of Income Tax
Chennai .. Appellant

Vs.

M/s.L.J.International Ltd.,
60 Rukmani Lakshmipathy Salai,
Egmore, Chennai-8. .. Respondent

Prayer:-
Tax Case filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 5.10.2012 made in ITA No.1142/Mds/2012.

Against the Order of Commissioner of Income Tax, Chennai-I, Chennai-34 dated 30.03.2012 in C.No.218(44)/CIT-I/263/2011-12 against the Assessment order dated 25.11.2009 for the Assessment Year 2007-08 by the Assistant Commissioner of Income Tax Company Circle-II(4), Chennai-34.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J)

This Tax Case has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 5.10.2012 made in ITA No.1142/Mds/2012, for the Assessment Year 2007-2008, by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in nullifying the order passed under Section 263 of the Act?

(ii) 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 claimed under Section 10B as the assessee was manufacturing and producing tissue culture plant?

iii) 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 claim deduction under Section 10B especially when raising of plants through tissue culture does not involve any manufacturing activity as living organism does not come under the purview of the Act?"

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(CCC)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Commissioner of Income Tax
Chennai

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

3. The Assistant Commissioner of Income Tax,
Company Circle -II(4), Chennai-34.

4. The Deputy Commissioner of Income Tax,
Company Circle-II(4), Chennai-34.

SS(CO)
CS/12/03/2020