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 No.147 of 2013

Commissioner of Income Tax, Coimbatore ...Appellant

Vs

M/s.Precot Mills Ltd., Coimbatore ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 19.7.2012 made in ITA.No.966/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2005-06, against the appellate Order passed by the commissioner of Income Tax(A)-1, Coimbatore, dated 08/02/2012 made in Appeal No.70/10-11, and against the assessment order passed by the Assistant Commissioner of Income Tax Company Circle-1(2) Coimbatore, dated 31/08/2010, 31/12/2007 made in PAN/GIR No.AABCP3038K for the Assessment year 2005-2006.

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

For Respondent:Mr.A.S.Sriraman

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel and Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant - Revenue and Mr.A.S.Sriraman, learned counsel appearing for the respondent.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 19.7.2012 made in ITA.No.966/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench

(for brevity, the Tribunal) for the assessment year 2005-06.

3. The appeal has been admitted on 10.4.2013 on the following substantial questions of law :

> "i. Whether, under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that part of an industrial unit itself can be treated as an independent industrial undertaking entitled for additional depreciation as provided in Section 32(1)(iia), though looms are only part of the industrial undertaking of the assessee ?
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> 2. Whether, under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the weaving division can be considered as a separate undertaking for determining the claim for allowance of additional depreciation as provided in Section 32(1)(iia) of the Income Tax Act?
>
> 3. Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the non filing of audit report in Form 3AA as prescribed in Third Proviso to Section 32(1)(iia) is only a procedural lapse ? And
>
> 4. Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the requirement for filing of the audit report along with the return of income is only directory and not mandatory ?"

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. No costs.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

RS

To

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

2. The Commissioner of Income Tax(A)-1
   Coimbatore.

3. The Assistant Commissioner of Income Tax,
   Company Circle-1(2), Coimbatore.

TCA.No.147 of 2013

EV(CO)
CB(23/09/2020)