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.494 of 2015

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

-vs-

M/s.Eastman Exports Global Clothing (P) Ltd.,
No.10-12, Kumar Nagar,
South 2nd Street,
Tirupur-641 003.
PAN: AAC CC 0952 E ... Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 09.01.2015 made in I.T.A.No.773/Mds/2014 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2009-10. Appeal against the order dated 16/01/2014 made in ITA No.110/11-12, on the file of the Commissioner of Income Tax (Appeals)-II, Coimbatore for the assessment year 2009-10.

Against the under section 617/11 made in PAN No.AACCC0952E on the file of the Deputy Commissioner of Income Tax/Assistant Commissioner of Income Tax Company Circle, Tiruppur for the assessment year 2009-10.

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

For Respondent: Mr.R.Senniappan

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 and Mr.R.Senniappan, 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 09.01.2015, made in I.T.A.No.773/Mds/2014 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2009-10.

3. The appeal was admitted on 08.07.2015 on 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 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

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

3. The Deputy Commissioner/Assistant Commissioner of
   Income Tax Company Circle, Tiruppur.

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

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