In the High Court of Judicature at Madras

Dated : 06.7.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.541 of 2013

The Commissioner of Income Tax, Coimbatore ...Appellant/ Appellant

Vs

M/s.Bannari Amman Sugars Ltd., Coimbatore-18. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 26.8.2011 made in ITA.No.160/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2007-08, against the order to the commissioner of income tax, (appeals)-1 Coimbatore, dated 03/11/2010 and made in appeal no.193/09-10 against the order of the Assistant Commissioner of Income Tax circle-1(2) Coimbatore dated 29/12/2009 and made in permanent Account No. AAA CB8933G.

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

For Respondent: Mr.R.Vijayaraghavan for
M/s.Subbaraya Aiyer Padmanabhan

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.R.Vijayaraghavan, learned counsel appearing on behalf of M/s.Subbaraya Aiyer Padmanabhan, learned counsel on record 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 26.8.2011 made in ITA.No.160/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench (for brevity, the Tribunal) for the assessment year 2007-08.

3. The appeal has been admitted on 28.10.2013 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 the deduction under Section 80IA is to be allowed on power generation units without setting off the loss from the windmill ? and
>
> ii. Whether the Income Tax Appellate Tribunal erred in holding that each of power generating unit of the assessee is a separate undertaking and not the combined net income of all the power generating units including the windmill is to be considered for the purpose of deduction under Section 80IA ?"

4. The learned Senior Standing Counsel for the appellant submits that the substantial questions of law framed for consideration in this appeal have been decided in favour of the assessee in the assessee's own case in TCA.No. 1045 of 2009 dated 28.1.2019.

5. Following the said decision, the above tax case appeal is dismissed and the substantial questions of law are answered in favour of the assessee. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
1.The Income Tax Appellate Tribunal, Chennai 'C' Bench.

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

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

TCA.No.541 of 2013

AD(CO)
RMP(06/08/2020)