IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2020

CORAM

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

Tax Case No.555 of 2013

Commissioner of Income Tax
Coimbatore ... Petitioner/Respondnet

Vs.

M/s.Eveready Spinning Mills P Ltd.,
23, Jothi Theatre Road,
Tirupur-641 601. ... Respondent/Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal 'D' Bench, Chennai dated 30.11.2011 in ITA No.1571/Mds/2011.

For Appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel

For Respondent : Mr.R.Sivaraman

J U D G M E N T

(Judgment of the Court was delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'D' Bench, Madras, by raising the following substantial question of law:

"1.Whether under the facts and in the circumstances of the case, the Hon'ble Income Tax Appellate Tribunal right in law in holding that profits of the windmill for the purpose of computing deduction under Section 80IA is to be determined on the basis of annual landing cost of electricity purchased by the assessee from Tamil Nadu Electricity Board?

2. Whether under the facts and in the circumstances

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of the case, the Hon'ble Income Tax Appellate Tribunal was right in law in holding that the price of Rs.2.70 per unit at which the assessee sold its power to Tamil Nadu Electricity Board cannot be equated with market rate as understood for the purpose of Section 80IA(8)?

3. Whether under the facts and in the circumstances of the case, the Hon'ble Income Tax Appellate Tribunal was right in holding that the price of Rs.3.50 per unit at which the assessee purchases the electricity from Tamil Nadu Electricity Board corresponds to market value, in computing deduction under Section 80IA?"

2. When the matter was taken up for hearing, the learned 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 not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Asst.Registrar (CS VI)

/true copy/
Sub Asst. Registrar

KST

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

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+1 cc to Mr.T.R.Senthil kumar Advocate sr11665

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