IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.6.2020

CORAM

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

Tax Case (A) No.556 of 2013

Commissioner of Income Tax
Coimbatore. Appellant

Vs.

M/s.Viking Textiles P. Ltd.,
505, Avinashi Road,
Tirupur.
PAN: AACV7564P Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'D' Bench, Chennai, dated 30.11.2011 made in ITA No.1570/Mds/2011.

Against the order of the Commissioner of Income Tax Appeals) II, Coimbtore dated 21/07/2011 PAN/TAN AACVT564P. For the assessment year 2007-2008 and against the order of the Deputy commissioner of Income Tax, Company Circle Tiruppur, dated 17/12/2009 P.A.No. /GIR.No. AAACVTR64P DCIT Company circle, Tiruppur for the Assessment Year 2007-08.

For Appellant : Mr.T.R.Senthilkumar
Senior Standing Counsel

For Respondent : Mr.R.Sivaraman

J U D G M E N T
(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, Chennai, dated 30.11.2011 made in ITA No.1570/Mds/2011, for the Assessment Year 2007-2008, by raising the following substantial questions of law:

"(i) Whether under the facts and circumstances of the case, the Hon'ble Income Tax Appellate Tribunal was 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 Tamilnadu Electricity Board?

(ii) Whether under the facts and circumstances 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 Tamilnadu Electricity Board cannot be equated with market rate as understood for the purpose of section 80 IA (8)?

(iii) Whether under the facts and circumstances of the case, the Hon'ble Income Tax Appellate Tribunal was right in law 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 80 IA?"

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 (CS- III MDU)

//True Copy//

Sub Assistant Registrar

Ssk.

To

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

2.The Commissioner of Income Tax
Coimbatore.

3.The Deputy Commissioner of Income Tax,
Tiruppur.

Tax Case (A) No.556 of 2013

AD(CO)
GN(29/06/2020)