IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.6.2020

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

TAX CASE APPEAL NO.80 OF 2013

The Commissioner of Income Tax, Central II Chennai-34 ...Appellant/Appellant

Vs

M/s.Mohan Breweries & Distilleries Ltd., Chennai-2. ...Respondent/Respondent

Prayer:-

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 13.9.2012 made in ITA.No.1381/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2008-09.

ITA.No.1381/Mds/2012 against the Commissioner of Income Tax (Appeals)-V, Chennai-34 in CIT(A)-V/ITA.NO.397/10-11 order dated 21.03.2012 in PAN-AAACM2415L for the Assessment year 2008-2009. against the Assistant Commissioner of Income Tax Company Circle - IV(3), Chennai-34 in PA.No.AAACM2415L order dated 31.12.2010 for the Assessment year 2008-09.

For Appellant: Mr.T.R.Senthilkumar,
SSC assisted by
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 assisted by Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant - Revenue and Mr.R.Vijayaraghavan, learned counsel appearing for the respondent - assessee.

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 13.9.2012 made in ITA.No.1381/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench (for brevity, the Tribunal) for the assessment year 2008-09.

3. The appeal has been admitted on 25.2.2013 on the following substantial questions of law :

> "1. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in allowing deduction under Section 80 IA of the Income Tax Act during the assessment year 2004-05 as the initial assessment year?
>
> 2. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in allowing deduction under Section 80 IA of the Income Tax Act when the assessee itself claimed in the assessment year 1999-2000 as the initial assessment year? And
>
> 3. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in following assessee's own case for the earlier assessment year and in the case of Velayudhasamy Spinning Mills (P) Ltd. judgments which are subject matter of SLP pending before the Hon'ble Supreme Court?"

4. The learned Senior Standing Counsel for the appellant submits that the substantial questions of law framed in this appeal have been answered against the Revenue in the decision of this Court in case of Velayudhasamy Spinning Mills (P) Ltd. Vs. ACIT [reported in (2012) 340 ITR 477] as confirmed by the Hon'ble Supreme Court in the decision in the case of ACIT Vs. Velayudhasamy Spinning Mills (P) Ltd. [reported in (2016) 76 Taxmann.com 176].

5. Following the same, this appeal is dismissed and the substantial questions of law are answered against the Revenue and in favour of the assessee. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

RS

To

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

2. The Commissioner of Income Tax,
   Central II, Chennai-34.

3. The Commissioner of Income Tax (Appeals)-V,
   Chennai-34.

4. The Assistant Commissioner of Income Tax,
   Company Circle - IV(3), Chennai-34.

TCA.No.80 of 2013

RJI(CO)
CS/09/09/2020