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.603 OF 2016

The Commissioner of Income Tax, Chennai ...Appellant/Respondent

Vs

M/s.Asvini Fisheries Ltd., Chennai-96 ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 18.12.2015 made in ITA.No.2246/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2009-10 arising against the order of the Commissioner of Income Tax (Appeals)Central I,Chennai dated 30.05.2014 for the assessment year 2009-10, made in ITA No.248/13-14 arising against the Assessment order of the Assessment Year 2009-10 of the Joint Commissioner of Income tax (OSD), Company Circle I(1), Chennai 34 dated 29.12.2011 PAN.AAACA2931P

For Appellant : Mr.T.Ravikumar, SSC & Mrs.R.Hemalatha, SSC
For Respondent : Mr.R.Vijayaraghavan for M/s.Subbarayar Aiyer Padmanabhan

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.Ravikumar and Mrs.R.Hemalatha, learned Senior 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 18.12.2015 made in ITA.No.2246/Mds/2014

on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench (for brevity, the Tribunal) for the assessment year 2009-10.

3. The appeal has been admitted on 23.8.2016 on the following substantial questions of law :

> “1. Whether on the facts and in the circumstances of the case, the Tribunal was correct in holding that the loss on account of forward contract in foreign exchange derivatives is not a speculative loss?
>
> 2. Is not the finding of the Tribunal bad by holding that the loss on forward contract in Forex Derivatives upto the amount of export turnover is to be treated as business loss? And
>
> 3. Whether on the facts and in the circumstances of the case, the finding of the Tribunal is proper especially when the Act provides exclusion only to those transaction done through recognized stock exchanges and the assessee's transaction with the bank are not covered by any of the exemptions provided under Section 43(5) of the Income Tax Act?"

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 questions of law framed are 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

RS

To

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

2.The Joint Commissioner of Income Tax(OSD),
Company Circle-I(1), Chennai 34.

TCA.No.603 of 2016

RSK(CO)
KKV/01/09/2020