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.815 of 2016

The Commissioner of Income Tax, Chennai ...Appellant

Vs

M/s.Biomed Hitech Industries Ltd., Chennai-110 ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 25.5.2016 made in ITA.No.1155/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2007-08. Against the Appellate order passed by the Commissioner of Income Tax (A)(C)-II, Chennai-34, dated 31/01/2014 in ITA No.350/13-14 & ITA.No.584/09-10/A-III dated 08/09/2011, and against the Assessment order passed by the Assistant Commissioner of Income Tax Company Article 1(3)-Chennai, dated 24/12/2009 ind GIR/PAN AAACB 19539

For Appellant : Mr.T.Ravikumar, SSC & Mrs.R.Hemalatha, SSC
For Respondent : Mr.M.P.Senthilkumar

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.M.P. Senthilkumar, 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 25.5.2016 made in ITA.No.1155/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench (for brevity, the Tribunal) for the assessment year 2007-08.

3. The appeal has been admitted on 29.11.2016 on the following substantial questions of law :

"i. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the disallowance of claim of CENVAT credit is not mistake apparent from record which could be rectified under Section 154 ? and

ii. Is not the finding of the Tribunal bad by holding that rectification under Section 154 is not proper especially when disallowing the claim of CENVAT credit has no bearing on revenue recognized and the expenditure claimed does not relate to the relevant year and therefore, would be a patently inadmissible expenditure ?"

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

To
1.The Income Tax Appellate Tribunal, Chennai 'D' Bench.
2.The Commissioner of Income Tax (A)(C)-II, Chennai-34,
3.The Assistant Commissioner of Income Tax Company Article1(3), Chennai

TCA.No.815 of 2016

ev(co)
rr ii (07/09/2020)