IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

T.C.A.No.406 of 2018

The Commissioner of Income Tax,
Chennai.
.. Appellant

Versus

M/s.Alagumalai Impex Pvt Ltd.,
No.95, New Avadi Road,
Kilpauk, Chennai 600 010
PAN AADCA6590R .. Respondent

Prayer:- Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, dated 11.07.2017 made in I.T.A.No2911/Mds/2014 relating to the Asst Year 2007-08.

Against the order dated 27/08/2014 made in ITA.No. 419/9-10/A1 passed by the Commissioer of Income Tax Appeals(1), Against the Order dated 17/12/2009 made in PAGIR.No. AADCA6590R assessment year 2007-08.

For Appellant : Mr.R.Hemalatha
Standing counsel for Taxes
For Respondent: Mr.T.N.Seetharaman

JUDGMENT

[Order of the Court was made by T.S.SIVAGNANAM, J.]

This appeal, filed by the Revenue under Section 260 A of the Income Tax Act, 1961 is directed against the order passed by the Income Tax Appellate Tribunal, Chennai, 'B' Bench in I.T.A.NO.2911/Mds/2014 dated 11.07.2017 for the assessment year 2007-08. The appeal has been filed raising the following substantial question of law.

1. Whether the Tribunal was correct in holding that the quantum of unabsorbed depreciation loss out of the total loss carried forward is not required to be set off before computing deduction u/s 10B?

2. Whether the Tribunal ought to have followed the decision of the Apex Court in the case of Himatasingke Seide Ltd reported in 214 Taxmann.com page 257 wherein it had been clearly held that brought forward losses are to be first set off before allowing deduction u/s.10B of the I.T.Act?

2. It is not in dispute and cannot be disputed by the Revenue that the above question of law are answered against the Revenue in T.C.A.No.228/2011 dated 18.03.2020 as well as by this Court in T.C.A.No.301/2019 dated 06.07.2020.

3. Thus, following the above decision, the Tax Case Appeal is dismissed and the substantial questions of law are answered against the Revenue.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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TO

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

2.The Commissioer of Income Tax (Appeals)-1,
Chennai.

3.The Deputy Commissioer of Income Tax,
Company Circle 1 (1),
Chennai.

4.The Commissioner of Income Tax,
Chennai.

T.C.A.No.406 of 2018

RSV(CO)
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