In the High Court of Judicature at Madras

Dated : 02.12.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.555 of 2018

The Principal Commissioner of
Income Tax-2, Chennai-34. ...Appellant

Vs

M/s.Indowind Energy Ltd.,
Chennai-34. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 25.10.2016 made in ITA.No.936/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2006-07,1.against the order of the Commissioner of Income Tax(Appeals)-6 121, Mahatma Gandhi Raod, Nungambakkam, Chennai-34 dt.12.02.15 in ITA.No.143/CIT(A)-6/2008-09. Assessment year 2006-07.2.against the order of the Commissioner of Income Tax(Appeals)-6 121, Mahatma Gandhi Road, Nungambakkam, Chennai-34 dt 23.01.15 in ITA.No/234/CIT(A)-6/2014-15 Assessment year 2008-2009. 3.against the order of the Deputy Commissioner of Income Tax, Company Circle-11(3), Room No.513, 5th floor, Wanaparthy Block, 121, Mahatma Gandhi Road, Nungambakkam, Chennai-34, PAN/GIR No.AAACI1806M, Assessment year 2008-09 dt.28/03/2014. 4.against the order of the Assistant Commissioner of Income Tax, Company Circle 11(3), 121, N.H.Road, Chennai-34 dt.30/12/2008 in PAN/GIR No.AAACI1806M, Assessment year 2006-2007.

For Appellant :Mr.Karthik Ranganathan, SC

For Respondent:Mr.A.S.Sriraman

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.Karthik Ranganathan, learned Standing Counsel appearing for the appellant – Revenue and

Mr.A.S.Sriraman, learned counsel accepting notice 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 25.10.2016 made in ITA.No.936/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench (for brevity, the Tribunal) for the assessment year 2006-07.

3. The appeal was admitted on 28.8.2018 on the following substantial questions of law :

> "i. Whether, in the facts and circumstances of the case and in law, the Appellate Tribunal was correct in holding that the loss was due to non recoverability of advances made to M/s.Cicon Environment and not for any expenditure incurred by the assessee and therefore, the assessee deserved deduction for the entire loss of Rs.1,02,00,000/- as business loss allowable under Section 37(1) of the Income Tax Act ?
>
> ii. Whether the ITAT was correct in holding that the advances made to M/s.Cicon Environment eligible to be claimed as business loss when the proposed project did not materialize and the question of claiming the expenses from the commissioning of the project does not arise ? And
>
> iii. Whether, in the facts and in the circumstances of the case and in law, the Tribunal was correct in treating the compensation paid of Rs.65 lakhs to its associate company M/s.Indonet Global Ltd., for the delay in commissioning the project to be allowed as deduction as per Section 37 of the Act? "

4. The learned 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(CCC)

//True Copy//
Sub Assistant Registrar

RS

To

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

2.The Commissioner of Income Tax(Appeals)-6
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-34.

3.The Deputy Commissioner of Income Tax,
Company Circle-II(3), Room No.513,
5th Floor, Wanapathy Block,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-34.

4.The Assitant Commissioner of Income Tax,
Company Circle-11(3),
121, N.H.Road, Chennai-34.

TCA.No.555 of 2018

SR II(CO)
CB(19/01/2021)