IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2020

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
&
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.558 of 2018

Principal Commissioner of Income Tax 2
No.121, Mahatma Gandhi Road,
Chennai - 600 034. ...Appellant

Vs.

M/s.Indowind Energy Ltd,
Kothari Buildings, IV floor,
114, Nungambakkam High Road,
Chennai - 600 034.
PAN : AAA CI 1806 M ...Respondent

Tax Case Appeal is filed under Section 260A of the Income Tax Act 1961 against the order dated 25.10.2016 made in I.T.A.No.1824/Mds/2015 on the file of the Income Tax Appellate Tribunal, Madras "B" Bench, for the assessment year 2008 - 09 against the order of the Commissioner of Income Tax (Appeals) 6, Nungambakkam, Chennai-34 dated 12.02.15 in GI No/PA No AAAC11506M in ITA No 143/CIT A 6 2008-2009

Against the order of the Commissioner of Income Tax (Appeals) 6, Nungambakkam, Chennai 600034 dated 23.01.2015 GI No/PA No AAAC11806M in ITA No 234/CIT(A) 6/2014-2015

Against the order of the Commissioner of Income Tax Company Circle 11(3) Nungambakkam dated 28.03.2014 in the assessment year 2008-2009 PAN GIR No AAAC11806M.

Against the order of the Assistant Commissioner of Income Tax Company Circle 11(3), Chennai 34 dated 30.12.2008 GI No/PA No AAAC11806M in the Assessment Year 2006-2007.

For Appellant : Mr.Karthik Ranganathan
For Respondent : Mr.A.S.Sriraman
For Mr.S.Sridhar

Judgment

(Judgment was delivered by T.S.SIVAGNANAM.J)

We have heard Mr.Karthik Ranganathan, learned counsel for the appellant and Mr.A.S.Sriraman, accepting notice for the respondent.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 25.10.2016 made in I.T.A.No.1824/Mds/2015 on the file of the Income Tax Appellate Tribunal, Madras "B" Bench, for the assessment year 2008 - 09.

3. The Tax case appeal was admitted on 28.08.2018 on the following substantial questions of law :

> "(i) Whether in the facts and circumstances of the case and in law, the ITAT was correct in allowing the bad debt written off on account of advance made for the purchase of land to M/s.Wipro Finance Ltd. when the assessee is not into the business of real estate? and
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> (ii) Whether the ITAT was correct in allowing higher claim of depreciation while calculating the book profit under Section 115JB of the Act, when the assessee had not disclosed by way of a note forming part of annual accounts as specified in Circular No.2/89/No.1/17-87-CI-V of the Ministry of Industry?"

4. The learned 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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

raja

To

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

2.The Commissioner of Income Tax (Appeals), Nungambakkam.

3.The Commissioner ofIncome Tax,
Company Circle-II(3),
Nungambakkam, Chennai-34.

Tax Case Appeal No.558 of 2018

MG(CO)
KKV/06/08/2020