IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

T.C.A.No.699 of 2018

Commissioner of Income Tax
Circle I,
Madurai ... Appellant

Vs

M/s.L.S.Mills Limited,
Post Box No.12, Madurai Road,
Theni

PAN: AAACL 3081 D ... Respondent

PRAYER : Appeal under Section 260A of Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "D" Bench, dated 15.03.2018 in ITA.No.1918/MDS/2018 against intimation under Section 143(1) of the Income Tax Act 19612 dated 01.03.2016 passed by the Assistant Commissioner of Income Tax, CPC Bangalore for the assessment year 2015-2016 against PAN AAACC3081D on thefile of the Assistant Commissioner of Income Tax (CPC) dated 01.03.2016.

For Appellant : Mr.M.Swaminathan
Senior standing counsel

For Respondent : Mr.J.Balachander

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

This Tax Case Appeal has been preferred by the Revenue against the order dated 15.03.2018 in ITA.No.1918/CHNY/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2015-16.

2.Aggrieved against the order of the Commissioner of Income Tax (appeals) directing the Assessing Officer to recompute the MAT credit given to the assessee, after taking into account surcharge at the rate of 10% and educational cess at the rate of

3%, the Revenue has filed ITA.No.1918/MDS/2018, before the Income Tax Appellate Tribunal. The Tribunal has rejected the plea of the Tribunal and dismissed the same. Against the dismissal order, the present appeal has been preferred by the Revenue.

3.Heard the parties.

4.The appeal is admitted on the following substantial questions of law :

> “1.Whether the Income Tax Appellate Tribunal is right in holding that the surcharge and education cess should form part of the tax while computing the MAT credit given to the assessee u/s.115JAA?
>
> (ii)Whether the Income Tax Appellate Tribunal is right in holding that the explanation 2 of Section 115JB to define the meaning of tax for calculating book profits liable to tax u/s.115JB can be extended to Section 115JAA?"

5.Mr.M.Swaminathan, learned Senior Standing Counsel appearing on behalf of the appellant would submit that the tax effect in this case is less than Rs.1 crore and is covered by Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, Delhi. As per the said circular, the monetary limit to file an appeal before the High Court is fixed at Rs.1 crore. In this case, tax effect is less than Rs.1 crore and therefore, the case has to be dismissed.

6.This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the said Circular, which prescribes monetary limit for filing appeal is usefully extracted as follows:

> 2.As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

S.No.	Appeals / SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appeallate Tribunal	50,00,000
2.	Before High Court	1,00,00,000

S.No.	Appeals / SLPs in Income-tax matters	Monetary Limit (Rs.)
3.	Before Supreme Court	2,00,00,000

7.In view of the submissions made by the learned counsel appearing on behalf of the appellant and also in view of the Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Delhi, the Tax Case Appeal is dismissed on account of tax effect. However, the substantial questions of law framed is left open. In the event the tax effect is above the 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.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

sai
To
1.The Commissioner of Income Tax
Circle I, Madurai

2.Income Tax Appellate Tribunal 'D' Bench, Chennai.

3.The Assistant Commissioner of Income Tax, CPC Bangalore

+1 CC to Mr.M.Swaminathan, Advocate sr 2955.
+1 CC to Mr.J.Balachander, advocate sr 2662.

T.C.A.No.699 of 2018

RGN(CO)
SP(26/02/2020)