In the High Court of Judicature at Madras

Dated : 15.6.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Tax Case Appeal No.218 of 2014

The Commissioner of Income
Tax, Coimbatore ...Appellant

Vs

Shri V.Muthusamy, Proprietor,
M/s.Spic Tex International
(initial stands corrected in this
order) ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 17.10.2013 made in ITA.No.966/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2008-09 and against the order of ITA.No.135/10-11 date 28.2.2013 on the file of the commissioner of Income Tax(Appeals)II, Coimbatore and the against the Assessment order date 30-12-2010 made in PAN NO/GIR.NO.AEPPM9566E Assessment year 2008-09 on the file of Assistant Commissioner of Income Tax Circle-1, Tirupur.

For Appellant: Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani, SC

For Respondent: Mr.R.Kumar for Mr.T.N.Seetharaman

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant - Revenue and Mr.R.Kumar, learned counsel appearing on behalf of Mr.T.N.Seetharaman, learned counsel on record for the respondent.

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 17.10.2013 made in ITA.No.966/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench (for brevity, the Tribunal) for the assessment year 2008-09.

3. The appeal has been admitted on 14.7.2014 on the following substantial questions of law :

> "i.Whether, under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in confirming the order of the CIT(A) directing the Assessing Officer to delete the addition of deemed dividend ? and
>
> ii.Whether, under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that depreciation as per the Income Tax Act is required to be considered for calculating accumulated profits for the purpose of determination of deemed dividend under Section 2(22)(e) of the Income Tax Act ?"

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. It is further submitted by the learned Senior Standing Counsel appearing for the Revenue that the correct initial of the assessee is 'V' and not 'K' as shown in the grounds of appeal.

5. The said fact is not disputed by the learned counsel appearing for the respondent - assessee. Hence, the said submission is recorded and the initial of the respondent - assessee shall stand corrected as 'V'. Registry shall correct the initial of the respondent - assessee in the grounds of appeal also.

6. 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 (Appeals)-II Coimbatore.

3.The Assistant Commissioner of Income Tax,
Circle-I, Tirupur.

TCA.No.218 of 2014

RLD (CO)
RV (04/09/2020)