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.232 OF 2014

The Commissioner of Income Tax, Coimbatore ...Appellant

Vs

M/s.Sri Ranganathar Valves (P) Ltd., Coimbatore-25 ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 18.11.2013 made in ITA.No.1684/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2010-11 and against the order dated 31-05-2013 made in Appeal No.126/12-13 on the file of the Income Tax (Appeals) 1, Coimbatore for the Assessment year 2010-11 and against the Assessment Order dated 05-02-2013 made in PAN AALCS5492C on the file of the Deputy Commissioner of Income Tax Company Circle 1 (3), Coimbatore for the Assessment year 2010-2011

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

For Respondent : Mr.A.S.Sriraman

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel and Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant - Revenue and Mr.A.S.Sriraman, learned counsel appearing 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 18.11.2013 made in ITA.No.1684/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench (for brevity, the Tribunal) for the assessment year 2010-11.

3. The appeal has been admitted on 21.7.2014 on the following substantial questions of law :

> "i. Whether the Tribunal was right in law in holding that the assessee is entitled to deduction under Section 80IA without setting off the losses/ unabsorbed depreciation pertaining to the windmill, which were set off in the earlier year against other business income of the assessee following the decision of this Court in 340 ITR 477 when the same is pending appeal before the Supreme Court in SLP (Civil) 1136 of 2011 ?
>
> 2. Whether the Tribunal was correct in holding that the initial assessment year in Section 80IA(5) would only mean the year of claim of deduction under Section 80IA and not the year of commencement of eligible business ? And
>
> 3. Whether the Tribunal was right in holding that the assessee has the option to choose the first/initial assessment year of claim for deduction under Section 80IA?"

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.

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

//True Copy//

Sub Assistant Registrar

RS

To

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

2.The Commissioner of Income Tax(Appeals-1), Coimbatore.

3.The Deputy Commissioner of Income Tax,
Company Circle-1(3), Coimbatore.

TCA.No.232 of 2014

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