In the High Court of Judicature at Madras

Dated : 06.7.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.244 of 2017

Commissioner of Income
Tax-3, Coimbatore-18 ...Appellant/Appellant

Vs

M/s.Noyyal Common Effluent
Treatment Company Ltd.,
Tirupur-641601. ...Respondent/ Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 26.10.2016 made in ITA.No.2068/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2007-08, and against the order dated 30/03/2016 made in I.T.A.No.131/15-16 on the file of the Income Tax Appeals(3)- Coimbatore for the assessment year 2007-2008, and against the order dated 30.03.2015 made in PAN/GIR No.AACCN2584K on the file of the Income Tax Officer ward 1(2), Tirupur, for the Assessment year 2007-2008.

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

For Respondent: Mr.R.Sivaraman

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.Sivaraman, 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 26.10.2016 made in ITA.No.2068/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench (for brevity, the Tribunal) for the assessment year 2007-08.

3. The Revenue filed this appeal by raising the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in deleting the disallowance of Rs.1,72,24,412/- being the interest received by the assessee from deposits made and assesable as income under the head 'income from other sources' ? And
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> ii. Whether, on the facts and in the circumstances of the case, the Tribunal is justified in allowing the interest paid on loans, which is a pre-operational expense, as deduction against the interest earned from deposits, which is separately assessable under the head 'income from other sources ? And
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> iii. Whether the Tribunal is right in stating that no evidence was brought on record by the Revenue to prove that the deposits are placed with UTI from the surplus funds, with an intention to earn the interest income, when the assessee company had not commenced operation and as such, there was no computation of business income or loss incurred by the assessee company in the relevant accounting year? And
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> iv. Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in not distinguishing that the object of the assessee company was to start effluent treatment plant and not to earn interest income? "

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 raised 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)-3,
Coimbatore.

3.The income Tax Officer
Ward 1(2), Tirupur.

TCA.No.244 of 2017

NR(CO)
RMP(01/09/2020)