IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case (Appeal) No.264 of 2017

Principal Commissioner of Income Tax-4
No.121, Mahatma Gandhi Road
Chennai 600 034. ... Appellant

Vs.

M/s.Mallika Battery Company Ltd
No.5, 4th Street, Dr.Radhakrishnan Salai
Myalpore, Chennai 600 004.
PAN AAACM23878L ... Respondent

Prayer: Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'B' Bench, Chennai dated 15.07.2016 in ITA No.1012/Mds/2016 and against the order of the Commissioner of Income Tax (Appeals)-8, Nungambakkam, Chennai -34 dated 29.01.2016, made in ITA.No. 62/2013-14 for the assessment year 2008-09 and against the order of the Deputy Commissioner of Income Tax, Company Circle IV (i), Chennai dated 31.03.2013, made in PAN/GIR.No. AAACM2378L for the assessment year 2008-2009.

For Appellant : M/s.Karthik Ranganathan
Senior Standing Counsel

For Respondent : Mr.A.S.Sriraman
for M/s.S.Sridhar

J U D G M E N T

(Judgment of the Court was delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, by raising the following substantial questions of law:

"1.Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition of sale proceeds of shares of M/s.Numeric Power Systems Ltd., while computing the book profits for the purpose of Section 115 JB of the Income Tax Act?

2. Whether in the facts and circumstances of the case and in law, the Appellate Tribunal was correct and justified in holding that the assessee company is not the owner of shares of M/s.Numeric Power Systems Ltd., even though name of assessee appears as owner/holder in the share certificate as well as share register of the said company?

3. Whether in the facts and circumstances of the case and in law, ITAT is correct in holding that assessee was holding shares of M/s.Numeric Power Systems Ltd., in fiduciary capacity on behalf of its director and whether order of the Appellate Tribunal is contrary on records and is perverse on facts?”

2. When the matter was taken up for hearing, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

KST

To

1.Income Tax Appellate Tribunal
'B' Bench,Chennai.

2.The Commissioner of Income Tax (Appeals)-8,
Nungambakkam, Chennai -34.

3.The Deputy Commissioner of Income Tax,
Company Circle IV (i), Chennai.

4.The Principal Commissioner of Income Tax,
No. 121, Mahatma Gandhi Road,
Chennai 34.

5.The Assistant Registrar,
Income Tax Appellant Tribunal (IIIrd Floor),
Rajaji Bhavan, Besant Nagar,
Chennai.

T.C.(A) No.264 of 2017

MR(CO)
GN(16/07/2020)