IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.9.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

Tax Case (Appeal) Nos.562 and 563 of 2017

Principal Commissioner of Income Tax 3,
No.63, Race Course Road,
Coimbatore.

Appellant/Appellant

Vs.

M/s.Venkatalakshmi Textiles Pvt. Ltd.,
335, Mangalam Road,
Tirupur 641 604.
PAN: AAA CV 7208 A

Respondent/Respondent

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 9.11.2016 made in ITA No.1467/Mds/2016 and C.O.No.113/Mds/2016. Preferred against the order dated 31.12.2015 in ITA No.128/2014-15 on the filing the office of the Commissioner of Income Tax(Appeals)-3, Coimbatore filed against the reassessement order dated 31.03.2014 for the Assessment year 2006-2007 on the filing the office of the Deputy Commissioner of Income Tax, Company Circle, Tiruppur.

For Appellant : Mr.T.R.Senthilkumar
Senior Standing Counsel
For Respondent : Ms.Indumathi for
Mr.J.Balachander

COMMON JUDGMENT

(Delivered by DR.VINEET KOTHARI,J)

These Tax Case Appeals have been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 9.11.2016 made in ITA No.1467/Mds/2016 and C.O.No.113/Mds/2016, for the Assessment Year 2006-2007, by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the Tribunal is Justified in law in holding that the reopening of the assessment was bad in law when the assessee had failed to disclose fully and truly all the material facts necessary for assessment in the Return of income filed by it?
(ii) Whether on the facts and in the circumstances of the case, the Tribunal is Justified in law in holding that the reopening of the assessment was bad in law when the A.O had reason to believe that income had escaped assessment?
(iii) Whether on the facts and in the circumstances of the case, the Tribunal is justified in law in holding that there was 'change of opinion' by the A.O., when the A.O. reopened the assessment to give effect to a new finding which was not available to the A.O at the time of completion of original assessment?
(iv) Whether on the facts and in the circumstances of the case, the Tribunal is justified in law in allowing the Cross Objection filed by the assessee upholding that the reopening of assessment is bad in law?"

2. When the matters are taken up for hearing, learned Senior 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 cases, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeals filed by the Revenue are dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Deputy Commissioner of
Income Tax,
Circle-1, Tirupur.

3. The Commissioner of Income Tax,
(Appeals-3), Coimbatore.

+1cc to Mr.T.R.Senthilkumar, Advocate in SR.NO..31628

+1cc to Mr.J.Balachander, Advocate in SR.NO..31587

BR(CO)
RV(04/11/2020)