IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Ms.Justice R.N.MANJULA

Tax Case Appeal No.205 of 2021

Thiagarajar Mills (P) Limited,
Kappalur,
Madurai - 625 008. ...Appellant

Vs

Asst. Commissioner of Income-Tax,
Company Circle-1,
Madurai. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 05.02.2020 made in ITA.No.984/Chny/2007 on the file of the Income Tax Appellate Tribunal, 'B' Bench, Chennai for the assessment year 2004-05.

Against the Order of the Commissioner of Income Tax (Appeals)-1, Madurai made in PAN/AAACT 4304 R date of order 23.01.2007 in ITA.Nos0240/06-07 against the Assessment Order of the Assistant Commissioner of Income Tax Company Circle I, Madurai made in PAN.No.AAACT4304R date 29/12/2006 for the Assessment Year 2004-05.

For Appellant: Mr.R.Srinivasan, assisted by Mr.J.Naresh Kumar

For Respondent: Mr.M.Swaminathan, SSC

JUDGMENT
(Delivered by T.S.Sivagnanam,J)

This appeal has been filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 05.02.2020 made in ITA.No.984/Chny/2007 on the file of the Income Tax Appellate Tribunal, 'B' Bench, Chennai ('the Tribunal' for brevity) for the assessment year 2004-05.

2. The appellant-assessee has raised the following substantial questions of law for consideration:

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that valuation of closing stock must be re-examined on the basis of its suggestion and remitting it to the Assessing Officer when the issue for adjudication is not the valuation of closing stock at all?

2. Whether the Appellate Tribunal was right in not correctly following the directions of this Court and the jurisdictional High Court decisions which are in favour of the assessee?"

3. We have heard Mr.R.Srinivasan, assisted by Mr.J.Naresh Kumar, learned counsel for the appellant-assessee and Mr.M.Swaminathan, learned Senior Standing Counsel appearing for the respondent-Revenue.

4. The assessee is in the business of manufacture and sale of cotton yarn. The Assessing Officer, for the assessment year under consideration, i.e. AY 2004-05, completed the assessment under Section 143(3) of the Act, by order dated 29.12.2006. Aggrieved by the same, the assessee filed appeal before the Commissioner of Income Tax (Appeals)-I [CIT(A)], Madurai. Though there were several issues, the issue, which we were concerned in the present appeal, was with regard to change of method of valuation of stock as per the Accounting Standard of the Institute of Chartered Accountants of India. The CIT(A) found that the change was bona fide and the reduction in profit during the year under consideration will be made good in the following year. Thus, following the principles of law laid down by the Hon'ble Supreme Court in the case of Chainrup Sampatram Vs. CIT [24 ITR 481 (SC)], it was held that the assessee was entitled to re-compute his profit by following the changed method of valuation of closing stock and accordingly, the addition was deleted.

5. Aggrieved by such finding, the Revenue preferred appeal before the Tribunal, contending that the CIT(A) ought to have upheld the addition as the same was made by the Assessing Officer to adopt uniform method of valuation to determine the opening stock and closing stock. The Tribunal, by order dated 03.04.2009, set aside the orders of the Assessing Officer and the CIT(A) and remitted the matter to the Assessing Officer to decide the issue afresh by doing the valuation of opening stock as well as the closing stock at the cost price method.

6. The said order was put to challenge by the assessee before this Court in T.C.A.Nos.1125 to 1129 of 2009. The appeals were allowed by judgment dated 25.04.2019 and the matter was remanded back to the Tribunal to pass final orders about the

valuation of closing sock in accordance with law, after considering the decision of this Court, which was referred to in the said judgment, namely M/s.Kadari Ambal Mills Limited Super B-3, Industrial Estate, Madurai Vs. Joint Commissioner of Income Tax and another in T.C.A.No.430 of 2005, dated 20.06.2001. On remand, the Tribunal, by the impugned order, applied the decision in M/s.Kadari Ambal Mills Ltd. (supra) and dismissed the appeal. However, not stopping with that, the Tribunal in the penultimate paragraph has remanded the matter to the Assessing Officer with a direction to verify as to the justifiability of adopting different method of valuing different components of inventory and whether the said differential method for valuing different components of inventory are consistent with Accountant Standard prescribed by ICAI. The assessee is aggrieved by that portion of that order passed by the Tribunal remanding the matter.

7. Firstly, we have to see whether that was an issue before the Tribunal or in other words, did the Revenue raise a contention before the Tribunal on those lines. On perusal of the contentions advanced by the Revenue before the Tribunal, we find that no such ground has been raised by the Revenue. Therefore, the question would be whether the Tribunal was justified in remanding the matter to the Assessing Officer for such purpose.

8. On the legal issue, we are guided by a decision of the Hon'ble Division Bench of this Court in the case of M.R.M. Periannan Chettiar Vs. Commissioner of Income Tax [(1960) 39 ITR 159 (Mad)]. It was held in the said case that the existence of an appeal which related only to a distinct matter in controversy did not entitle the Tribunal to take up and decide the appeal in favour of the assessee therein on the basis of a ground not in controversy.

9. On similar lines, the High Court of Calcutta, in the case of R.L.Rajgharia Vs. Income Tax Officer and others [(1997) 107 ITR 347 (Cal)], held that the jurisdiction and the power of the Tribunal was restricted only to decide the controversy before it and the Tribunal was not entitled to, and was not competent, to enlarge the controversy and decide an issue not before it. In the said case, the Tribunal had remanded the matter to the Appellate Authority with a direction to find whether the loss was capital loss or not. This order of remand was held to be without jurisdiction, as such issue was not the controversy before the Tribunal.

10. Thus, we are of the clear view that the direction issued by the Tribunal in the impugned order, remanding the matter to the Assessing Officer, was wholly without jurisdiction.

11. Accordingly, the tax case appeal is allowed and the

substantial questions of law are answered in favour of the assessee and that portion of the order passed by the Tribunal remanding the matter to the Assessing Officer, is set aside. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

hvk

To

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

2. The Assistant Commissioner of Income-Tax,
   Company Circle-1,
   Madurai.

3. The Commissioner of Income Tax,
   (Appeals)-1, Madurai.

+1cc to Mr.R.Srinivasan, Advocate, S.R.No. 20578
+1cc to Mr.M.Swaminathan, Advocate, S.R.No. 20523

TCA.No.205 of 2021

RLD(CO)
GN(04/06/2021)