IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

T.C.A.No.632 of 2009

Commissioner of Income Tax I
Chennai. ... Appellant

Versus

M/s. Lucas TVS Ltd.,
Padi, Chennai 600 050.
PAN No.AAACL3768E ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "B" Bench, dated 02.02.2009 in I.TA.No.2520/Mds/07 against the order of the Commissioner of Income Tax (Appeals)-III, Chennai-34 dated 27.09.2007 made in ITA No.774/2006-07/AIII and against the order of the Additional Commissioner of Income Tax, Company Range II, Chennai-34 dated 29.12.2006 in PAN/GIR No.AAACL3768E for the Assessment Year 2004-05.

For Appellant : Mr.Karthik Ranganathan

For Respondent : Mr.Subbaraya Aiyar

J U D G M E N T

(Judgment was delivered by R.MAHADEVAN, J.)

This tax case appeal has been filed by the appellant / Revenue, calling in question the correctness of the order dated 02.02.2009 passed by the Income Tax Appellate Tribunal, 'B' Bench, Madras, in I.T.A.No.2520 /Mds/07, relating to the assessment year 2004-05.

2.On 27.07.2009, this court admitted the aforesaid appeal on the following substantial questions of law:-

"(i) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the receipts from sale of scrap will not form part of total turnover for the purpose of benefit of section 80 HHC without going into the question of the nature of scrap?

(ii) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in holding that the deduction under Section 80HHC is to be allowed without deducting the deduction granted under Section 80IB?

(iii) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in ignoring the specific provisions of 80IA(9) read with 80IB(13) which forbids deduction to the extent of the profits allowed under Section 80IB under any other provisions of Chapter VIA?"

3. When the matter was taken up for consideration, the learned counsel for the appellant / Revenue brought to the notice of this court the Circular No.17/2019 dated 08.08.2019 issued by the Central Board Direct Taxes, wherein, it is stipulated that appeal 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). It is also submitted that the tax effect in this appeal is less than the threshold limit.

4. In the light of the aforesaid submissions made by the learned counsel for the appellant / Revenue, the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial questions of law for determination in an appropriate case. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Income Tax I,
Chennai.

2.The Income Tax Appellate Tribunal,
Madras, "B" Bench.

3.The Commissioner of Income Tax (Appeals) III,
Chennai - 34.

4.The Additional Commissioner of Income - tax,
Company Range II, Chennai.

+1cc to Mr.T.Ravi Kumar, Senior Standing Counsel for Income Tax, SR. No. 61727
+1cc to Mr.Subbaraya Aiyar, Advocate SR. No.61687

T.C.A.No.632 of 2009

AJS (CO)
PR (13/12/2021)