IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

CORAM

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

Tax Case Appeal No. 918 of 2009

The Commissioner of Income Tax
Chennai .. Appellant

Versus

M/s. A.V. Thomas Leathers & Allied Products Ltd
64, Rukmani Lakhmipathy Salai
Egmore, Chennai - 600 008
PAN: AAACA6246K .. Respondent

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order dated 20.03.2009 passed by the Income Tax Appellate Tribunal, Madras “A” Bench, Chennai in I.T.A.No.1021/Mds/2008.

And against the o/o Commissioner of Income - Tax (Appeals) - VIII, No.121, Mahatma Gandhi Road, Nungambakkam, Chennai - 600034 and made in 48/07-08 dated 19.02.2008 and against the o/o Assistant Commissioner of Income Tax Company Circle 1(1), Chennai and made in PAN/GIR.No.AAACA6246K/AX2-046 dated 31.10.2007 for the assessment year 2005 - 2006.

For Appellant : Mrs.R.Hemalatha
Standing Counsel

For Respondent : No appearance

JUDGMENT

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

This tax case appeal has been filed by the appellant / Revenue, challenging the order dated 20.03.2009 passed by the Income Tax Appellate Tribunal, 'A' Bench, Chennai, in I.T.A.No. 1021/Mds/2008, relating to the assessment years 2005-2006.

2. By order dated 17.09.2009, this Court admitted the aforesaid tax case appeal on the following substantial questions of law:

> "1. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the business losses of an eligible unit whose income is not liable to tax as per Section 10A of the Act, can be set off against the profits of the other business of the assessee?"

3. When this 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 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). It is further submitted that in this case., the tax effect is less than the threshold limit and there is no audit objection involved. A memo through email dated 07.12.2021 is also filed to that effect.

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, are dismissed as withdrawn, keeping open the substantial questions of law for determination in an appropriate cases. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dhk

To

1. The Income Tax Appellate Tribunal,
   Madras "A" Bench.

2. The Commissioner of Income Tax
   Chennai – 34.

3. The Commissioner of Income – Tax (Appeals) – VIII,
Nungambakkam,
Chennai – 600 034.

4. The Assistant Commissioner of
Income Tax Company Circle 1(1),
Chennai - 600 034.

+1cc to Mrs.R.Hemalatha, Advocate, S.R.No.65463

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RR[co]
NSK 27/12/2021