IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.01.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.Nos. 1346 & 1347 of 2010

Commissioner of Income Tax,
Chennai. ... Appellant in both TCAs

v.

M/s. Kausalya Aquamarine,
Products Exports Pvt. Ltd.,
20, Palani Andavar Street,
Chindadripet, Chennai - 600 002. ... Respondent in both TCAs

T.C.A. No. 1346/2010 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 18.12.2009 in ITA.No.1499/Mds/2008 for the Assessment Year 2001-02.

T.C.A. No. 1347/2010 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 18.12.2009 in C.No.5/Mds/2009 A/o. ITA.No.1499/Mds/2008 for the Assessment Year 2001-02.

For Appellant : Mr.S. Rajesh
for Mr.Karthik Ranganathan
Standing Counsel

For Respondent : J. Narayana Swamy

COMMON JUDGMENT

(Judgment was delivered by M.DURAISWAMY, J.)

We have heard Mr.S. Rajesh, learned Standing Counsel for the appellant/Revenue and Mr. J. Narayana Swamy, learned counsel for the respondent.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) are directed against the order dated 18.12.2009 made in ITA.No.1499/Mds/2008 & C.No.5/ Mds/2009 A/o. ITA.No.1499/Mds/2008 respectively on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench (for brevity, the Tribunal) for the Assessment Year 2001-02.

3. In the above appeals, the assessee has raised the following Substantial Questions of Law for consideration:

> *"(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is entitled to deduction u/s. 80HHC on DEPB benefits even though the condition thereof have not been satisfied and in remitting the matter back to the file of the Assessing Officer for consideration afresh in the light of the guidelines laid down by the Special Bench in* ***Topman Exports (318 ITR AT 87)*** *? and*
>
> *(ii) Whether on the facts and in the circumstances of the case, the Income Tax Tribunal was right in deleting the interest u/s.234D without observing that the section is applicable to all assessment years for which regular assessments have been completed after 01.10.2003 ?"*

4. The learned Standing Counsel appearing for the appellant submits that the above appeals are not pursued by the Revenue on account of the Low Tax Effect in terms of Circular No.17/2019 dated 08.08.2019 issued by the Central Board of Direct Taxes. By the said

Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 crore. It is further submitted that the tax effect in respective cases is less than the threshold limit.

5. In the light of the said submissions, the above Tax Case Appeals are dismissed as withdrawn on account of the Low Tax Effect. The substantial questions of law framed is left open. In the event the tax effect in the respective cases is above the threshold limit fixed in the said Circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeals to be heard and decided on merits. No costs.

[M.D., J.] **[T.V.T.S., J.]**
21.01.2021

Index : Yes/No
Internet : Yes

Rj

To

The Income Tax Appellate Tribunal,
Chennai, “A” Bench

M. DURAISWAMY, J.

and

T.V. THAMILSELVI, J.

Rj

T.C.A.Nos. 1346 & 1347 of 2010

21.01.2021