IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2021

CORAM

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

T.C.A.No.770 of 2010

The Commissioner of Income Tax,
Circle XV,
Chennai. ... Appellant/ Appellant

Vs.

M/s.Cauvery Enterprises,
No.8, 2nd Street,
Ganapathy Colony,
Chennai - 86. ... Respondent/ Respondent

Tax Case Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai, "A" Bench, dated 11.12.2009 in I.TA.No.389/Mds/2009, Assessment Year 2002-03 against the order passed by the Commissioner of Income Tax Appeals XII, 121,Mahathma Ghandi Road, Nungambakkam,Chennai 34 made in ITA.NO.536/07-08 DATED 28.11.2008 and against the order passed by the Assistant Commissioner of Income Tax,circle XV,Chennai made in GIR NO/PAN NO.AAAFC3959J dated 31.12.2007.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.M.P.Senthil Kumar

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.M.P.Senthil Kumar, learned counsel for the respondent/assessee.

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 11.12.2009 made in I.TA.No.389/Mds/2009 on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench (for brevity, the Tribunal) for the Assessment Year 2002-03.

3.The appeal was admitted on 17.08.2010 on the following substantial question of law:

> "Whether on the facts and in the circumstances of the case, the Tribunal was right in deciding contrary to the principles laid down in 251 ITR 323 (SC) when the assessee's activities does not amount to manufacture or produce of any article or thing?"

4.The learned Senior Standing Counsel for the appellant submits that the above appeal is 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 this case is less than the threshold limit.

5.In the light of the said submissions, the above Tax Case Appeal is dismissed as withdrawn on account of the Low Tax Effect. The substantial question of law framed is left open. In the event the tax effect in this case 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 appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,
Circle XV,
Chennai.

3.The Commissioner of Income Tax Appeals XII,
121,Mahathma Ghandi Road, Nungambakkam,Chennai 34

+1cc to Mr.T.Ravikumar , Advocate SR.No. 11556
+1cc to Mr.M.P.Senthil Kumar , Advocate SR.No.11307

T.C.A.No.770 of 2010

BS CO
A.SK(23.03.2021)