IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2021

CORAM

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mr.Justice SATHI KUMAR SUKUMARA KURUP

T.C.A.Nos.1013 & 1014 of 2015
and
M.P.No.1 of 2015

M/s.Leo Fasteners,
Rep., by its Partner,
A-27A, Industrial Estate,
Thattanchavady,
Pondicherry-9.
PAN – AABFL0652J .. Appellant in both Appeals

-vs-

Asst. Commissioner of Income Tax,
Circle I, Pondicherry. .. Respondent in both Appeals

Appeals under Section 260A of the Income Tax Act, 1961 against the order dated 29.05.2015 made in I.T.A.No.1223/Mds/2014 and I.T.A.No.3097/Mds/2014 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment years 2005-06 and 2006-07 respectively.

Prayer in TCA 1014/15:

1. Appeal against the order of the Commissioner of Income Tax (Appeals), Pondicherry made in ITA No.749/13-14 dated 27.11.2014 PAN No.AABFL0652J, Assessment year 2006-07.

2. Appeal against the order of the Assistant Commissioner of Income Tax Circle-I, Pondicherry made in PAN No.AABFL0652J/L-303, order dated 28.03.2013, Assessment year 2006-07.

Prayer in TCA 1013/15:

1. Appeal against the order of the Commissioner of Income Tax (Appeals)-VI, 121, Mahatma Gandhi Road, Chennai-34 made in ITA.No.675/13-14/A-VI dated 25.03.2014, PAN No.AABFL0652J, Assessment year 2005-06.

2. Appeal against the order of the Assistant Commissioner of Income Tax Circle-I, Pondicherry made in PAN No.AABFL0652J/L-303, order dated 31.12.2012, Assessment year 2005-06.

For Appellant : Ms.Vardini Karthik
(In both Appeals)

For Respondent : J.Narayanasamy,
(In both Appeals) Senior Standing Counsel

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

These appeals, by the appellant/assessee, filed under Section 260A of the Income Tax Act, 1961 are directed against the order dated 29.05.2015 made in I.T.A.No.1223/Mds/2014 and I.T.A.No.3097/Mds/2014 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment years 2005-06 and 2006-07 respectively.

2.C.M.A.No.1013 of 2015 has been admitted on 17.11.2015, on the following substantial questions of law:-

> "1.Whether on the facts and circumstances of the case, the Tribunal was right in holding that the re-assessment is valid in law on a perverse finding of fact that the details came into light as a result of search, when there was no such search in the case of the appellant?
>
> 2.Whether on the facts and circumstances of the case, the Tribunal was right in holding that the re-opening was valid in law when the re-assessment order itself was framed only on the figures declared by the appellant in its computation of income filed along with the return of income, when the same is a mere change of opinion?
>
> 3.Whether on the facts and circumstances of the case, the Tribunal was right in excluding the interest income from the deduction claimed under Section 80IB, when the income earned by the appellant was from the margin money deposits which were inextricably linked to the business of the appellant? and
>
> 4.Whether the Tribunal was right in upholding the exclusion of the gross interest income from the computation of deduction under Section 80IB by way of re-assessment, when the assessing officer had accepted the inclusion of net interest in the regular assessment?"

3.C.M.A.No.1014 of 2015 has been filed raising the following substantial questions of law:-

> "1.Whether on the facts and circumstances of the case, the Tribunal was right in holding that the re-assessment beyond four years is valid in law on a perverse finding of fact that the details came into light as a result of search, when there was no such search in the case of the appellant?
>
> 2.Whether on the facts and circumstances of the case, the Tribunal was right in holding that the re-opening beyond four years was valid in law when the re-assessment order itself was framed only on the figures declared by the appellant in its computation of income filed along with the return of income, when there is no allegation of suppression of facts?
>
> 3.Whether on the facts and circumstances of the case, the Tribunal was right in excluding the interest income from the deduction claimed under Section 80IB, when the income earned by the appellant was from the margin money deposits which were inextricably linked to the business of the appellant? and
>
> 4.Whether the Tribunal was right in upholding the exclusion of the gross interest income from the computation of deduction under Section 80IB by way of re-assessment, when the assessing officer had accepted the inclusion of net interest in the regular assessment?"

4.Heard Ms.Vardini Karthik, learned counsel for the appellant/assessee and Mr.J.Narayanasamy, learned Senior Standing Counsel for the respondent/Revenue.

5.The learned counsel for the appellant/assessee has circulated a letter dated 03.08.2021, stating that the appeals have become infructuous, as the Tribunal in the rectification petitions filed by the assessee, has allowed the appeals in favour of the assessee for the assessment years under consideration.

6.The submission made by the learned counsel for the assessee is placed on record and the tax case appeals are dismissed as infructuous. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

To

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

2.Assistant Commissioner of Income Tax,
Circle-I, Pondicherry.

3.Commissioner of Income Tax (Appeals)
Pondicherry.

4.Commissioner of Income Tax (Appeals)VI,
121, Mahatma Gandhi Road,
Chennai-34.

T.C.A.Nos.1013 & 1014 of 2015

SRII (CO)
PR (02/09/2021)