IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.8.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

TAX CASE APPEAL NOS.1015 OF 2015 & 172 OF 2017 &

MP.NO.1 OF 2015

M/s.Leo Fasteners rep.by
its partner ...Appellant/
Appellant

Vs

The Assistant Commissioner of
Income Tax, Circle I, Pondicherry ...Respondent/
Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the orders respectively dated 29.5.2015 and 30.9.2016 made in ITA.No.3098/Mds/2014 on the file of the Income Tax Appellate Tribunal, Madras 'A' Bench for the assessment year 2007-08.

TCA 1015 of 2015:

Against the order of the Commissioner of Income Tax (Appeal), Puducherry (I/C) in ITA 750/13-14 dated 27.11.2014 and against the order of the Assistant Commissioner of Income Tax Circle (I) Pondicherry in P.A.No./G.I.No.AABFLO652J/L-303, dated 28.03.2013 Asst Year 2007-2008.

TCA 172 of 2017:

Against the order of the Commissioner of Income Tax Appeal (Puducherry (I/C)) in ITA 750/13-14 dated 27.11.2014 and against the order of the Assistant Commissioner of Income Tax Circle (I) Pondicherry in AABFLO652J/L-303, dated 28.03.2013 Asst Year 2007-2008.

For Appellant: Mrs.G.Vardini Karthik
For Respondent: Mr.J.Narayanaswamy, SSC

COMMON JUDGMENT
(Judgment was delivered by T.S.SIVAGNANAM,J)

We have heard Mrs.G.Vardini Karthik, learned counsel appearing for the appellant and Mr.J.Narayanaswamy, learned Senior Standing Counsel appearing for the respondent.

2. These appeals are directed against the orders respectively dated 29.5.2015 and 30.9.2016 made in ITA.No.3098/Mds/2014 on the file of the Income Tax Appellate Tribunal, Madras 'A' Bench for the assessment year 2007-08.

3. The above appeals are filed by the assessee by raising the following substantial questions of law :

> "TCA.No.1015 of 2015 :
>
> i. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the reassessment is valid in law on a perverse finding of fact that the details came to light as a result of search, when there was no such search in the case of the appellant?
>
> ii. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the reopening was valid in law when the reassessment order itself was framed only on the figures declared by the appellant in its computation of income filed along with the return of income already considered during regular assessment amounting to a mere change of opinion?
>
> iii. Whether, on the facts and circumstances of the case, the Tribunal was right in excluding the entire 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
>
> iv. 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 reassessment when the Assessing Officer had accepted the inclusion of net interest in the regular assessment? And

TCA.No.172 of 2017 :

1. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the reopening was valid in law when the reassessment amounted to mere change of opinion?

2. Whether, on the facts and circumstances of the case, the Tribunal was right in upholding the reassessment when it was framed only on the figures declared by the appellant in its computation of income filed along with return of income, already considered during regular assessment?

iii. Whether, on the facts and circumstances of the case, the Tribunal was right in excluding the entire 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

iv. Whether the Tribunal was right in upholding the exclusion of the gross interest from the deduction under Section 80IB when the appellant had included only net interest in the computation?"

4. The learned counsel appearing for the appellant – assessee has given a letter dated 17.8.2021 stating that the appeals have become infructuous.

5. The relevant portion of the said letter reads as follows :

"It is submitted that the TCA.No.172 of 2017 was filed in January 2017 challenging the demand raised on account of reassessment proceedings. The Hon'ble High Court, in a batch of tax case appeals filed in the assessee's own case, vide order dated 10.7.2017, has allowed the appeals in favour of the appellant and has given complete relief of the deduction claimed under Section 80IB. It is further stated that this Hon'ble High Court in TCA.No.1220 of 2010 on 10.7.2017 and the same has been reported in 398 ITR 462 (Mad.). Since the relief sought for on merits have been fully granted by this Hon'ble Court, the appeals filed by the appellant challenging the reassessment proceedings in TCA.Nos. 1015 of 2015 and 172 of 2017 have become infructuous."

6. Recording the above communication, the above appeals are dismissed as infructuous. The substantial questions of law raised are left open. No costs. Consequently, the connected MP is also dismissed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

RS

To

1.The Assistant Commissioner of Income Tax,
Circle I, Pondicherry

2.The Income Tax Appellate Tribunal,
Madras 'A' Bench.

3.The Commissioner of Income Tax,
(Appeal, Puducherry (I/C)

+2ccs to M/S.J.Sreevidya, Advocate, SR.No.41572,41571
+1cc to M/S.Narayanasamy, Advocate, SR.No.41566

TCA.Nos.1015 of 2015
and 172 of 2017

PVS(CO)
PM(03/09/2021)