IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.02.2021

CORAM:

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

T.C.A.No.1221 of 2015

Commissioner of Income Tax,
No.63, Race Course Road,
Chennai. ... Appellant

v.

M/s. Hari Krishna Papers Private Limited,
NO.54/2, Jothi Nagar,
Venkatesa Mills Post,
Udumalpet - 642 128
PAN : AAD CS 0649 B ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "B" Bench, dated 24.07.2015 in ITA.No.633/Mds/2014 for the Assessment Year 2009-10 As against the order of the Commissioner of Income tax(Appeals)-II ,Coimbatore in IT Appeal No. 264/11-12 dated 16.01.2014 ; and As against the order of the Assistant Commissioner of Income Tax, Salary Circle I, Coimbatore for the Assesment Year 2009-10 vide Pan No. AADCS0649B.

For Appellant : Mr. T.R. Senthil Kumar,
Senior Standing Counsel

For Respondent : Mr. Kaushik
for M/s. S. Sridhar

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

We have heard Mr. T.R. Senthil Kumar, learned Senior Standing Counsel for the appellant/Revenue and Mr. Kaushik 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 24.07.2015 made in ITA.No.633/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai, ''B'' Bench (for brevity, the Tribunal) for the Assessment Year 2009-10.

3.The appeal was admitted on 11.01.2016 on the following substantial questions of law:

> "(i) Whether, on the facts and circumstances of the case, the Tribunal is justified in law in holding that a new industrial undertaking has come into existence within the meaning of sub section (2) of Section 80 1A of the Income Tax Act?
>
> (ii) Whether, on the facts and circumstances of the case, the Tribunal is legally correct by holding that the provisions of section 80 1A(3) (i) is not applicable to the turbine unit? and
>
> (iii) Whether, on the facts and circumstances of the case, the Tribunal is justified in law by deciding the issue by over viewing the finding of the Commissioner of Tax Appeals that the restrictive provisions under section 80 1A(3) (ii) is also applicable ?"

4.The learned Senior Standing Counsel appearing 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 questions 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/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

Rj

To
1.The Income Tax Appellate Tribunal,
Chennai, “B'' Bench.

2.The Commissioner of Income Tax (Appeal- II)
Coimbatore.

3. The Assistant commissioner of Income Tax Salary Circle 1,Coimbatore.

+1CC to T.R.Senthil Kumar Advocate ,SR No.5067.

T.C.A.No.1221 of 2015

MGR(CO)
NRA(05/03/2021)