IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2021

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R. HEMALATHA

T.C.A.No.320 of 2015

The Commissioner of Income Tax,
Chennai. ... Appellant

Vs.

M/s.Indo Tech Transformers Ltd.
DP 36, SIDCO Industrial Estate,
Thirumazhisai,
Chennai - 600 107. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, “C” Bench, dated 13.05.2014 in I.TA.No.313/Mds/2014, Assessment Year 2005-06, appeal against the order dt 18/10/13 made in ITA.No.468/13-14 on the file of the Commissioner of Income Tax(Appeals)II, Chennai and appeal against the order dt 30/12/2010 made in PAN/GIR No.AAACI6509F, on the file of the Deputy Commissioner of Income Tax Company Circle II(3), Chennai, for the assessment year 2005-06.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

For Respondent : Mr.R.Venkata Narayanan
for M/s.Subbaraya Aiyar Padmanabhan

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

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel for the appellant/Revenue and Mr.R.Venkata Narayanan for M/s.Subbaraya Aiyar Padmanabhan, 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 13.05.2014 made in I.TA.No.313/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai, "C" Bench (for brevity, the Tribunal) for the Assessment Year 2005-06.

3.The appeal was admitted on 15.07.2015 on the following substantial questions of law:

> "1.Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee was eligible for setting off of brought forward losses pertaining to the assessment year 2004-05 in the present assessment year without filing a revised return especially when the time limit that had been prescribed u/s.139(4) for filing the revised return of income expired only on 31.03.2006 and the High Court had passed order in September, 2005?
>
> 2.Is not the finding of the Tribunal is perverse and bad by holding that the assessee was under the bona fide belief that it can claim set off or brought forward of loss in the next assessment year ?
>
> 3.Whether finding of the Tribunal is proper by holding that the assessee can claim set off of brought forward loss in the assessment year 2005-06 as the order of the High Court passed for amalgamation was passed in September, 2005 and there is no statutory provisions under the Income Tax Act for allowing the brought forward losses without filing revised return?
>
> 4.Whether the losses of the assessment year 2004-05 can be claimed in the subsequent assessment year 2005-2006 especially when there is no provision under the Income Tax Act allowing brought forward losses?"

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 questions of law framed are 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(CO)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,
Chennai.

3.The Deputy Commissioner of Income Tax,
Company Circle-II(3), Chennai.

+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No.29949

T.C.A.No.320 of 2015

RSV(CO)
CB(19/07/2021)