IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 02.07.2021

CORAM:

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

T.C.A.No.353 of 2015

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

v.

M/s. BRT Spinners Pvt. Ltd.,
No.336, Pullakkadu Thottam,
Kombakkadupudur, Itchipatti Post,
Coimbatore - 641 668.
PAN: AAA CB 7320 D ... Respondent/Cross Objector

PRAYER:-

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 10.09.2014 in C.O.No.61/Mds/2014 in ITA.No.1675/Mds/2014 for the Assessment Year 2010-2011 against the Order passed by the Commissioner of Income Tax (Appeals)-II, Coimbatore, dated 24.03.2014, made in I.T.A.No.44/12-13 for the Assessment Year 2010-11 against the Assessment Order passed by the Deputy Commissioner of Income-Tax, Company Circle, Tirupur, dated 31.10.2012 made in P.A.No./G.I.R.No.AAACB7320D for the Assessment year 2010-11

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| For Appellant | : | Mr. T.R.Senthil Kumar<br>Senior Standing Counsel |
| For Respondent | : | Mr.S. Sendamarai Kannan |

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.S.Sendamarai Kannan, learned counsel for the respondent.

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 10.09.2014 made in C.O.No.61/Mds/2014 in ITA.No.1675/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench (for brevity, the Tribunal) for the Assessment Year 2010-2011.

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

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the proceeds realized by the assessee on sale of Certified Emission Reduction Credit, which the assessee had earned on the Clean Development mechanism in its wind energy operations, is a capital receipt and not taxable?"

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 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

gv

To

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

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

3.The Deputy Commissioner of Income Tax,
Company Circle, Tirupur.

+1cc to Mr.T.R.Senthil Kumar, Senior Standing Counsel, Advocate,
S.R.No.30694

T.C.A.No.353 of 2015

(CO)
SU(09/08/2021)