IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.07.2021

CORAM

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

Tax Case Appeal No.995 of 2015

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

Vs.

M/s.Bailey Hydropower (P) Ltd.,
SIPCOT Industries Park,
Irungattukottai, Sriperumbadur - 692 105.
PAN: AABCB 1804F ...Respondent/Appellant

PRAYER: Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "C" Bench, dated 02.01.2015 passed in I.T.A.No.1265/Mds/2013 for the assessment year 2005-2006.

For Appellant : Mr. T.Ravikumar
Senior Standing Counsel

For Respondent : Ms.Vardhini Karthik
for Ms.J. Sree Vidya

JUDGMENT

(Judgment of the Court was delivered by M. DURAISWAMY, J.)

We have heard Mr. T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and Ms.Vardhini Karthik, 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 02.01.2015 made in I.T.A.No.1265/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai, "C" Bench (for brevity, the Tribunal) for the Assessment Year 2005-2006.

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

"Whether on the facts and circumstances of the case, the Tribunal was right in allowing income from sale or scraps while considering the deduction u/s.108 of the Income Tax Act?

2. Is not the finding of the Tribunal bad by holding that the scrap sale was not part of the Export turnover and allowing 100% deduction on the same while computing deduction u/s.108?

3. Whether the finding of the Tribunal is proper especially when the scrap is sold in the domestic market which is a byproduct and not has nothing to do with the export of the goods or merchandise?"

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 In the light of the said submissions, the above Tax Case Appeal is dismissed as withdrawn on account of the Low Tax Effect.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.

[M.D., J.] **[R.H., J.]**
05.07.2021

Index : Yes/No
Internet : Yes
gv

M. DURAISWAMY, J.
and
R.HEMALATHA,J

gv

To
The Income Tax Appellate Tribunal,
Chennai,"C" Bench

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