IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

CORAM

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

T.C.A.No.542 of 2013

Commissioner of Income Tax,
Tiruppur. ... Appellant

Vs.

M/s.Arun Textiles P Ltd.,
80 Perumal Koil Street,
Tirupur. ... 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 11.08.2011 in I.TA.No.569/Mds/2011, Assessment Year 2007-08 against the order of the Commissioner Income Tax(Appeals)II, Coimbatore made in ITA No.513/2006-10 dated of order 11/01/2011 for the Assessment Year, against the order of Deputy Commissioner of Income Tax, Company Circle, Tiruppur, made in GIR No.AABCA8982D dated 21/12/2009 for the Assessment Year 2007-08.

For Appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel
and Mrs.K.G.Usha Rani
Standing Counsel

For Respondent : Mr.R.Sivaraman

JUDGMENT

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

We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel and Mrs.K.G.Usha Rani, learned Standing Counsel for the appellant/Revenue and Mr.R.Sivaraman, 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 11.08.2011 made in I.TA.No.569/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai, "B" Bench (for brevity, the Tribunal) for the Assessment Year 2007-08.

3.The appeal was admitted on 28.10.2013 on the following substantial questions of law:

> "1.Whether under the facts and circumstances of the case, the Hon'ble Income Tax Appellate Tribunal was right in holding that profits of the windmill for the purpose of computing deduction under Section 80 IA is to be determined on the basis of price of Rs.3.50 per unit which the assessee otherwise would have paid, if it had bought from open market particularly when the assessee could realize only Rs.2.70 per unit for the supply made to the Tamil Nadu Electricity Board?
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> 2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in holding that the applicability of market rate as contemplated under Section 80 IA (8) is not to be adopted when the rates are regulated by the authorities like Electricity Board?"

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

//True copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,
Tiruppur, Coimbatore.

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

4. The Commissioner of Income Tax,
Tiruppur.

+1cc to Mr.T.R.Senthil Kumar, Advocate SR.No.21549

T.C.A.No.542 of 2013

RLD(CO)
GMY(03/05/2021)