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.549 OF 2013

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

Vs.

M/s.Sri Velayudhaswamy Spinning Mills P.Ltd.,
207/86, Mangalam Road,
Karuvampalayam, Tirupur - 641 604. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, “D” Bench, dated 13.07.2011 in I.TA.No.850/Mds/2011, Assessment Year 2007-08.

Against the Order passed by the Commissioner of Income Tax (Appeals)-II, Coimbatore dated 22.02.2011 made in ITA.No.487C/2009-10 for the Assessment year 2007-08.

And as against the order passed by Deputy Commissioner of Income Tax, Company circle, Tirupur, dated 24.12.2009 made in PA.No./GIR.No.AADC50676C 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 13.07.2011 made in I.TA.No.850/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai, "D" Bench (for brevity, the Tribunal) for the Assessment Year 2007-08.

3.The appeal was admitted on 08.11.2013 on the following substantial questions of law:

> "1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in holding that the sale price of the electricity was to be taken at Rs.3.50 paise per unit even though the assessee was bound to sell at Rs.2.70 paise per unit to TNEB as per the contract?
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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 80IA(8) is not applicable 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(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Commissioner of Income Tax,
   Coimbatore.

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

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

T.C.A.No.549 of 2013

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CS/10/06/2021