IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2021

CORAM

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

T.C.A.No.831 of 2013

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

Vs.

M/s.Ennore Port Ltd.
23, Rajaji Salai, Chennai. ... 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 11.05.2012 in I.TA.No.237/Mds/2012, Assessment Year 2004-05 and Against the order dated:08/11/2011 made in ITA No 717/08-09/A-III on the file of the commission of Income tax (Appeals)-III,Chennai and against the order dated 01/12/2008 made in AAACE9013G on the file of the Deputy Commissioner of Income Tax Company Circle-II(1), Chennai.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

For Respondent : Mr.N.V.Balaji

JUDGMENT

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

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel for the appellant/Revenue and Mr.N.V.Balaji, 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 11.05.2012 made in I.TA.No.237/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai, “C” Bench (for brevity, the Tribunal) for the Assessment Year 2004-05.

3.The appellant/Revenue has raised the following substantial questions of law in the above appeal :

“1.Whether on the facts and in the

circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the expenditure relating to prior period interest amounting to Rs.1,12,74,194/- is to be allowed u/s.37?

2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the depreciation on port creation expenses amounting to Rs.36.70 lakhs are to be allowed inspite of the fact the same was not classified in the Appendix-I of the depreciation table under Income Tax Rules?

3.Whether on the facts and circumstances of the case, the port creation charges can be termed as a building or plant and machinery for claiming depreciation?”

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, “C” Bench

2.The Commissioner of Income Tax,
Chennai.

3.The Deputy Commissioner of Income Tax,
Company Circle-II(1), Chennai.

+1cc to Mr.N.V.Balaji, Advocate, S.R.No.28676

T.C.A.No.831 of 2013

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