IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.03.2021

CORAM:

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

T.C.A.No.391 of 2014

The Commissioner of Income Tax,
Company Circle,
Madurai. ... Appellant

Vs.

M/s.International Agricultural
Processing Private Limited,
332/5, Peranai Road,
Musuvanathu, Madurai - 624 219.
PAN :AAACI3593B ... Respondent

Prayer: Tax Case Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 30.10.2013 in I.TA.No.1638/Mds/2013 for the assessment year 2008-09 preferred against the order of the Commissioner of Income Tax-II, No.2, V.P.Rathinasamy Nadar Road, Bibikulam, Madurai-625 002 made in C.No.114/3/CIT-II/2012-13, for the Assessment year 2008 and 2009 and date of order : 26/12/2012 and against the order of the Assistant Commissioner of Income Tax, Circle III(Concur. Jurdn.), Madurai, made in PAN/GIR No.AAACI3593B, Assessment year 2008 and 2009 and date of order 30/2/2011.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel

For Respondent : Mr.R.Sivaraman

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

Challenging the order passed in I.TA.No.1638/Mds/2013 in respect of the assessment year 2008-09 on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench, the Revenue has filed the above appeal.

2.The above appeal was admitted 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 right in quashing the order of the Commissioner of Income Tax passed u/s 263 of the Income Tax Act, 1961 as non-speaking and cryptic order?
>
> 2)Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that there was no valid reason in the order passed by the Commissioner of Income Tax u/s 263 of the Act, regarding the genuineness of the expenditure claimed in the profit and loss account, balance sheet items and details of the annexure which were not examined by the Assessing Officer which could be termed as prejudicial to the interest of the Revenue and erroneous order?"

3.On a careful consideration of the materials available on record and the submissions made by Mr.M.Swaminathan, learned senior standing counsel appearing for the appellant - Revenue, it could be seen that the proceedings under Section 263 have been initiated by the Commissioner of Income Tax. The first reason cited in the show cause notice was that deduction under Section 10B has been allowed without excluding other incomes. The assessee placed on record the copy of the assessment order dated 30.12.2011 passed under Section 143(3) read with Section 147 wherein the Assessing Officer has categorically stated that the assessee has not claimed deduction under Section 10B. Therefore, the finding of the Commissioner of Income Tax that the assessee has claimed deduction under Section 10B is factually incorrect. So far as the genuineness of the expenditure claimed in the profit and loss account were not verified by the Assessing Officer and the Balance Sheet items and details of annexure were not examined at the time of assessment. The Tribunal, while setting aside the order of Commissioner of Income Tax, held that the Commissioner of Income Tax cannot direct the Assessing Officer to conduct roving enquiry without any specific directions with regard to specific expenditure or income claimed or suppressed by the assessee. Further, the Tribunal observed that the order passed by the Commissioner of Income Tax is a non-speaking and cryptic order. The Commissioner of Income Tax has not given any valid reason to come to the conclusion that the order passed by the Assessing Officer is erroneous and prejudicial to the interest of the Revenue.

4.For the reasons stated above, we do not find any error or irregularity in the order passed by the Tribunal. Further, we do not find any ground much less any substantial question of law to interfere with the order passed by the Tribunal. The appeal is liable to be dismissed. Accordingly, the Tax Case Appeal is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

VA

To

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

2. The Commissioner of Income Tax-II,
   No.2, V.P.Rathinasamy Nadar Road,
   Bibikulam, Madurai 625 002

3. The Assistant Commissioner of Income Tax,
   Circle-III, (formerly Company Circle II),
   Madurai.

4. The Commissioner of Income Tax Company Circle,
   Madurai.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.18133

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GSM(CO)
TE (23/04/2021)