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.451 of 2014

Commissioner of Income Tax,
Coimbatore. ... Appellant

Vs.

M/s.Lakshminarayanan Gaurishanker
Enterprises Private Ltd.,
Sugarcane Breeding Institute Post,
Coimbatore – 641 007. ... 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 18.11.2013 in I.TA.No.1685/Mds/2013 Assessment Year 2010-11, Appeal against the order dated 25-06-2013 made in PAN.No./GIR No.AAACL3739L on the file of the Coimbatore, for the Assessment year 2010-11 & as appeal against the order dated 08-01-2013 made in PAN.AAACL3739L on the file of the Deputy Commissioner of Inocme Tax, Company Circle-I(3), Coimbatore, for the Assessment year 2010-11.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel

For Respondent : no appearance

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

We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the appellant/Revenue.

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 18.11.2013 made in I.TA.No.1685/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai, "C" Bench (for brevity, the Tribunal) for the Assessment Year 2010-11.

3.The appeal was admitted on 12.08.2014 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 law in holding that the assessee is entitled to deduction under Section 80 IA without setting off the losses/unabsorbed depreciation pertaining to the windmill power generation business, which were set off in the earlier year against other business income of the assessee following the decision of the jurisdiction High Court in the case of M/s.Velayudhaswamy Spinning Mills (240 ITR 477) when the same is pending appeal before the Hon'ble Supreme Court in SLP Civil No.1136/11?

2)Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that the initial assessment year in section 80 IA (5) would only mean the year of claim of deduction under Section 80 IA and not the year of commencement of eligible business?

3)Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee has the option to choose the first/initial assessment year of claim of deduction under Section 80 IA?"

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 these cases are 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, Chennai.

2.The Commissioner of Income Tax(Appeals)-Im
Coimbatore.

3.The Deputy Commissioner of Income Tax,
Company Circle-I(3),
Coimbatore.

+1cc to Mr.T.R.Senthilkumar, Advocate SR.17819

T.C.A.No.451 of 2014

LN(CO)
CB(29/03/2021)