IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.02.2021

CORAM:

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

T.C.A.No.942 of 2014

Commissioner of Income Tax,
Circle - III, Madurai. ... Appellant

Vs.

Bella Premier Happy Hygiene Care Private Limited,
Ambaturai Gandhigram,
Dindigul District - 624 309. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 23.05.2014 in I.TA.No.525/Mds/2014 Assessment Year 2009-10.

Preferred against the order of the Income Tax Appellate Tribunal 'A' Bench, Chennai made on ITA No. 525/mds/2014 dated 23/05/2014. Preferred against the order of the Commissioner of Income Tax(Appeals)-I, Madurai made on ITA No.5/2012-13 dated 14/2/2014. Preferred against the order of the Assistant Commissioner of Income Tax Circle III, Madurai made in PAN/GIR No. AABCB9589P dated 30/12/2011.

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

For Respondent : no appearance

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

We have heard Mr.M.Swaminathan, 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) are directed against the order dated 23.05.2014 made in I.TA.No.525/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench (for brevity, the Tribunal)for the Assessment Year 2009-10.

3.The appeal was admitted on 26.11.2014 on the following substantial questions of law:

> "1)Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in cancelling the penalty under Section 271 (1)(c) when the assessee made a penalty ineligible claim as per statute?
>
> 2) Whether on the facts and in the circumstances of the case, the Tribunal was right in cancelling the penalty under Section 271(1)(c) when the assessee has made an incorrect claim towards "loss on account of currency fluctuation" when the return of income of the assessee is covered under Section 44AB?"

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, "A" Bench, Chennai.

2. The Commissioner of Income Tax (Appeals)-I, Madurai.

3. The Assistant Commissioner of Income Tax Circle III, Madurai.

+1 cc to Mr.M. Swaminathan, Advocate, SR.NO.10247, dated 22/02/2021

T.C.A.No.942 of 2014

GSM(CO)
NS(03/05/2021)