IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

T.C.A.No.1309 of 2009

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

Versus

M/s.Well Knit Industries,
S.F.No.314/5,
15, Valampalayam Main Road,
Anupparpalayam Post,
Tirupur.
... Respondent/ Appellant

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai, "D" Bench, dated 11.01.2008 in I.TA.No.1838/Mds/2006 against the order of the Commissioner of Income Tax(Appeal)-II,Coimbatore made in ITA.NO.176-C/04-05 dated 28.04.2006 against the order of the Income Tax Officer Ward-I(3),Tirupur Made in PAN/GIR NO.AAAFW2875K dated 31.03.2004 for the Assessment Year 2001-2002.

For Appellant	:	Mr.M.Swaminathan, Senior Standing Counsel Assisted by M/s.K.G.Usharani, Junior Standing Counsel
For Respondent	:	No appearance

J U D G M E N T

(Judgment of the Court was delivered by R.MAHADEVAN, J.)

This tax case appeal has been filed by the appellant / Revenue, challenging the order dated 11.01.2008 passed by the Income Tax Appellate Tribunal, Bench 'D', Chennai, in I.T.A.No.1838/Mds/2006, relating to the assessment year 2001-02.

2.By order dated 24.11.2009, this court admitted the aforesaid tax case appeal on the following substantial question of law:

"Whether the Tribunal was right in holding that levying interest under Section 234B of the Income Tax Act, when the liability to pay advance tax arose only due to an amendment to Section 80HHC interested by Taxation have Amendment Act, 2005 retrospectively w.e.f. 1.4.1992?"

3.When the matter was taken up for consideration, the learned counsel for the appellant / Revenue brought to the notice of this court the Circular No.17/2019 dated 08.08.2019 issued by the Central Board Direct Taxes, wherein, it is stipulated that appeal shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore). It is also submitted that the tax effect in this appeal is less than the threshold limit.

4.In the light of the aforesaid submissions made by the learned counsel for the appellant / Revenue, the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial question of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar

//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 Income Tax Officer,
Ward I(3),Tirupur.

+1 cc to Mr.M.Swaminathan, Advocate Sr.NO. 2614

T.C.A.No.1309 of 2009

NMI(CO)
A.SK(28.01.2022)