IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

T.C.A.No.566 of 2017

Commissioner of Income Tax
Chennai. ... Appellant

Versus

M/s. Sanmar Speciality Chemicals Ltd.,
9, Cathedral Road,
Chennai 600 086
PAN:AABCS0201P ...
Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai, "A" Bench, dated 18.12.2015 in I.TA.No.1360/Mds/2015.

For Appellant	:	Mr.J.Narayanasamy Standing Counsel
For Respondent	:	Mr.R.Venkatenarayanan for Mr.Subbaraya Aiyar

JUDGMENT

(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 18.12.2015 passed by the Income Tax Appellate Tribunal, 'A' Bench, Chennai, in I.T.A.No.1360/Mds/2015, relating to the assessment year 2011-12.

2. By order dated 05.12.2017, this court admitted the aforesaid tax case appeal on the following substantial questions of law:

"*(i) Whether freight and clearing expenses incurred in foreign exchange is to be included while computing deduction under Section 10B of the Income Tax Act, 1961?*

(ii) Whether the learned Tribunal erred in law in including freight and clearing expenses incurred in foreign exchange for the purpose of computing deduction under Section10B of the Income Tax Act, 1961?

(iii) Whether the decision of the Special Bench of the Income Tax Appellate Tribunal in the case of ITO vs. Sak Soft Ltd., reported in (2009) 313 ITR 353, is correct in law?

(iv) Whether Section 14A of the Income Tax Act read with Rule 8D of the Income Tax Rules applies even when the assessee has not received any dividend income?

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the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial questions of law for determination in an appropriate case. No costs.

(R.M.D., J.) **(M.S.Q., J.)**
14.06.2022

Internet : Yes
Index : Yes / No

R. MAHADEVAN, J.
and
MOHAMMED SHAFFIQ, J.

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To

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

2. The Commissioner of Income Tax,
   Chennai.

3. The Deputy Commissioner of Income Tax
   Corporate Circle 6(1),
   Aayakar Bhavan, New Block,
   Chennai - 600 034.

4. The Commissioner of Income Tax (Appeals) - 15,
   Chennai.

T.C.A.No.566 of 2017

14.06.2022
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