IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.08.2022

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN

AND

THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal No.343 of 2021

The Principal Commissioner of Income Tax
Corporate Circle-2(2)
Chennai-34 .. Appellant

Vs.

M/s.Hinduja Foundries Ltd.
(Merged with M/s.Ashok Leyland Ltd.)
Kathivakkam High Road, Ennore
Chennai 600 057
PAN : AAA CE 1078K .. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order dated 02.05.2018 passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, in I.T.A.No.2691/Mds/2017.

For Appellant : Mr.Karthik Ranganathan
Standing Counsel

**J U D G M E N T**

(Judgment was delivered by R. MAHADEVAN, J.)

This tax case appeal has been filed by the appellant/Revenue, calling in question the correctness of the order dated 02.05.2018 passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, in I.T.A.No.2691/Mds/2017, relating to the assessment year 2011-12.

2. By order dated 06.07.2021, this Court admitted the aforesaid tax case appeal on the following substantial questions of law :

> *"1. Whether on the facts and in the circumstances of the case in law the ITAT was right in ignoring the Explanation 1(f) to Section 115JB(2) of the Act where such disallowances made are to be increased for the purpose of computing book profit?*
>
> *2. Whether on the facts and in the circumstances of the case in law the ITAT was correct and justified in holding that the belated remittance of employees contribution to PF & ESI as per relevant Act, but before the due date of filing of the IT return in accordance with IT Act, which is in contravention of provisions of Section 36(1)(va) of the Act?"*

3. When the matter was taken up for consideration, the learned Standing 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 Standing 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the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial questions of law for determination in an appropriate case.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.]
25.08.2022

Internet : Yes
gya

To
1.The Deputy Commissioner of Income Tax
Corporate Circle 2(2), Chennai-34

2.The Commissioner of Income Tax (Appeals)-6
Chennai-34

3.The Income Tax Appellate Tribunal
'C' Bench, Chennai

R. MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

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