IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

T.C.A.No.195 of 2024

The Commissioner of Income Tax,
Corporate Circle,
Coimbatore. ... Appellant

-Vs-

M/s.Lakshmi Machine Works Limited,
(Successor of LMW Machinery Limited
Previously known as Reiter LMW
Machinery Limited)
Sulur Railway Feeder Road,
Muthudoundenpudur,
Coimbatore 641 406.
PAN: AABCR0309M ... Respondent

PRAYER : Tax Case Appeal filed under Section 260 A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal 'D' Bench, Chennai dated 17.08.2022 in I.T.A.No.2253/Chny/2016 for the assessment year 2004-05.

For Appellant	:	Mr.Karthick Ranganathan Senior Standing Counsel
For Respondent	:	Mr.R.Venkatanarayanan for M/s.Subaraya Iyer Padmanabhan

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J**)

The following substantial questions of law have arisen in this tax case appeal:

i. *Whether on the facts and in the circumstances of the case, the Tribunal was right in accepting the Cost Plus Method (CPM) as the most appropriate method against the Transactional Net Margin Method (TNMM) adopted by the TPO without passing a speaking order claiming that it was a contract manufacturer and that it did not bear any risk?*

ii. *Whether on the facts and in the circumstance of the case the Tribunal was correct in observing that the TPO had accepted the method of valuation by the assessee that is CPM for earlier and subsequent years when the TPO has actually adopted TNMM and conducted independent search and compared with identical companies and made no adjustment because of margin of comparable was less than 5%?*

iii. *Whether on the facts and in the circumstances of the case the Tribunal was right in allowing the claim of the assessee that Resale Price Method was the most appropriate method in respect of import of raw material when the price paid by the assessee was higher than the cost from original supplier?*

iv. *Whether on the facts and in the circumstances of the case the Tribunal was right in holding assessee is eligible for deduction u/s.10A or 10B when as per proviso to Section 92C (4) no deduction u/s.10A or 10B or chapter VIA shall be allowed if the amount of income is determined by enhanced of income after computation of income by determining the Arm's Length Price?*

2. It is submitted by Mr.Kartick Ranganathan, learned Senior Standing Counsel appearing for the appellant Revenue that, the similar issue had been accepted by the Assessing Authority against the very same assessee in respect of the subsequent assessment years, namely, assessment years 2005-06, 2006-07 and 2007-08, whereas the present issue relates to assessment year 2004-05.

3. Heard Mr.R.Venkatanarayanan, learned counsel appearing on behalf of Mr.Subaraya Iyer Padmanabhan for the respondent assessee.

4. In view of the aforestated factual position, where the Revenue itself have accepted the case of the assessee in respect of the subsequent assessment

years and no such adjustment was made by the Transfer Pricing Officer (TPO) for assessment years 2005-06 to 2007-08, the same logic would apply to the present year, ie., assessment year 2004-05, hence nothing more to be adjudicated on the issue raised in this appeal.

5. Hence, this Tax Case Appeal is dismissed, however keeping open the substantial questions of law arising in this appeal for decision at a later point of time in the appropriate case. However, there shall be no order as to costs.

(R.S.K., J.) (C.S.N., J.)
30.09.2024

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

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