IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.659 of 2018

Principal Commissioner of Income Tax
No.63, Race Course Road, Coimbatore. .... Appellant

Vs.

Emerald Jewel Industry India Ltd.,
230, T.V.Samy Road (East)
R.S.Puram, Coimbatore. .... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench Chennai, dated 07.10.2016 in ITA.No.141/MDS/2015.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

For Respondent : Mr.A.S.Sriraman

JUDGMENT
(Delivered by R.SURESH KUMAR, J.)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Chennai by raising the following substantial questions of law:

1. *Whether on the facts and circumstances of the case, the ITAT was justified in allowing the assessee's claim of depreciation on the brand 'Ishtaa' when the assessing officer for the Asst.Year 2010-11 has clearly brought on record that the assessee company failed to furnish any proposal / offer letter showing the proposal of sale of Brand name; any agreement entered into for purchase of brand name and no invoice was produced and thus it can be stated that the assessee company claiming to have acquired the brand is a colourable device and the corporate veil is liable to be lifted to get the true nature of the transaction?*

2. *Whether the Appellate Tribunal was justified in allowing the assessee's claim of depreciation on the brand 'Ishtaa' for the Asst.Year 2011-12 when the disallowance made for the Asst.Year 2010-11 was accepted by the assessee and the disallowance of the said depreciation for the Asst.Year 2011-12 is a consequence of the disallowance of the depreciation for the Asst.Year 2010-11?*

3. *Whether the Appellate Tribunal was justified in allowing the assessee's claim of depreciation on the brand 'Ishtaa' for the Asst.Year 2011-12 thus leading to two different results for two different Asst.Years*

on a similar issue viz., disallowance of depreciation for the Asst.Year 2010-11 and allowing for the Asst.Year 2011-12?

2. It is brought to our notice by the learned Standing Counsel for the appellant Revenue that in the instant case, as per the CBDT's Circular No.9 of 2024 dated 17.09.2024 the tax effect is said to be less than the monetary limit imposed and therefore, the appeal can be disposed of, keeping the substantial questions of law raised in this appeal open for adjudication at a later point of time.

3. Recording the aforesaid submission made by the learned Standing Counsel for the appellant Revenue, this Tax Case Appeal is dismissed for low tax effect, keeping open the substantial questions of law for adjudication at appropriate stage. No costs.

(R.S.K.,J.) (C.S.N.,J.)
23.10.2024

NCS : Yes/No
KST

To

The Income Tax Appellate Tribunal
'B' Bench, Chennai.

R.SURESH KUMAR, J.

AND
C.SARAVANAN, J.

KST

T.C.A.No.659 of 2018

23.10.2024