IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

T.C.(A).No.572 of 2009

Commissioner of Income Tax
Virudunagar.

.. Appellant

vs

M/s.The Ramco Cements Ltd.,
Formerly known as M/s.Madras Cements Ltd.,
"Ramamandiram",
Rajapalayam-626 117.
Virudhunagar District.

.. Respondent

(Cause title amended vide Court order dated 12.7.22
made in CMP.No.7551/19 in TC.No.572/09)

Prayer : Appeal filed under Section 260A of the Income-Tax Act, 1961 against the order of the Income-Tax Appellate Tribunal Madras 'B' Bench, dated 13.01.2009 in ITA No.2185/Mds/2007 for Assessment Year 2003-04.

For Appellant : Mr.J.Narayanaswamy
Senior Standing Counsel

For Respondent : Mr.P.Rishikesh

JUDGMENT
(Delivered by Dr.ANITA SUMANTH.,J)

In this Tax Case (Appeal), the following substantial question of law has been admitted for resolution on 14.07.2009:

> *'Whether in the facts and circumstances of the case, the Tribunal was right in treating the cost of conversion of metre gauge railway lines into broad gauge lines as revenue expenditure, when it is clearly capital in nature resulting in an enduring benefit?'*

2. In the assessment order dated 21.03.2006, the assessing authority has, in regard to the expenditure claimed on broad guage conversion at RR Nagar, disallowed an amount of Rs.15,92,416/-. Hence, the tax impact of the appeal qua the substantial question of law admitted is only a sum of Rs.15,92,416/-, which is far below the limits prescribed in terms of Circular No.9/2024 bearing F.No.279/Misc./M-74/2024-ITJ dated 17.09.2024, which stipulates an upper threshold of a sum of Rs.2.00 crore to maintain an appeal at the instance of the Department.

3. Mr.Narayanasamy, learned Senior Standing Counsel would draw attention to the fact that the original appeal contain three questions and admittedly the tax impact of the appeal had all three questions been

admitted would be in excess of Rs.2.00 crore.

4. However, this submission is not relevant to determine the maintainability of the appeal, as maintainability would have to be decided at the point when the appeal is being heard by the Bench qua the limits that govern such maintainability at the relevant point in time.

5. To give converse illustration, had the original substantial questions of law resulted in a tax impact of less than the Circular limit that stood enhanced to above the limit on further questions being admitted at the instance of the appellant at the time of hearing, it is the latter tax incidence that would be taken into account in deciding maintainability and not the tax impact qua the original substantial questions of law.

6. Mr.Narayanasamy would also draw attention to Circular No.5/2024 bearing F.No.279/Mis.142/2007-ITJ (Pt.) dated 15.03.2024, specifically clause (f) thereof, which refers to non-quantifiable tax effect. This situation arises in the case of orders passed under Sections 12A, 12AA, 12AB and 263 of the Income Tax Act, 1961. Such a situation does not arise in this case as the Assessing Officer has quantified the disallowance qua the substantial question of law admitted by this Court.

R. ANITA SUMANTH,J.
and
G. ARUL MURUGAN.,J

7. Hence, and seeing as the tax impact in this matter is far less than what is prescribed under the aforesaid Circular, this Tax Case (Appeal) relating to Assessment Year 2003-04 is dismissed as not maintainable. No costs.

[A.S.M., J] **[G.A.M., J]**
22.01.2025

Index:Yes/No
Speaking order
Neutral Citation:Yes
sl

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