IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2025

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR. JUSTICE C.SARAVANAN

Tax Case (Appeal) No.288 of 2010

The Commissioner of Income Tax - III,
Chennai. ... Appellant

Vs.

Numeric Power Systems Ltd.,
No.5, Numeric House,
P.S.Sivawamy Salai,
Mylapore, Chennai - 600 004. ... Respondent

Prayer: The Tax Case Appeal is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal Chennai 'A' Bench dated 04.06.2009 in I.T.A.No.2096/Mds/2008 Assessment Year 2004-05.

For Appellant : Mr.J. Narayanasamy
Senior Standing Counsel

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JUDGMENT

(Judgment of the Court was delivered by ***S.S. SUNDAR, J.)***

The present Tax Case Appeal is filed against the order of the Income Tax Appellate Tribunal Chennai 'A' Bench dated 04.06.2009 in I.T.A.No.2096/Mds/2008 Assessment Year 2004-05.

2. In this appeal, the appellant has raised the following substantial questions of law to be answered:-

"(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the method of allocation of common expenditure adopted by the Commissioner of Income Tax (Appeals) was correct when there was no legal sanction for the same nor were there any data or details on the basis of which it could have been framed?

(ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not upholding the order of the Assessing Officer allocating the expenses on the basis of the turnover of various units? and

(iii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled to the benefit under Section 80IB exceeding its claim in the return as corollary to the method of allocation of expenses adopted by the Commissioner of Income Tax (Appeals)?"

(iv) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in upholding the assessee's claim that the loss of the manufacturing unit IV at Pondicherry which was eligible for deduction under Section 80IB could be set off against other income without appreciating the provisions of Section 50AB(13)?

3. Today when the matter is taken up for hearing, the learned Senior Standing Counsel appearing for the appellant/Department submitted that the amount involved in the present appeal is below the monetary limit as per the circulars issued by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes in Circular No. 5/2024 and 09/2024 dated 15.03.2024 and 17.09.2024 respectively. He therefore, submitted that this appeal may be dismissed as withdrawn.

4. In view of the aforesaid submissions made by the learned Senior Standing Counsel for the appellant, this Tax Case Appeal is dismissed as withdrawn. However, the substantial questions of law are left open. There shall be no order as to costs.

(S.S.S.R., J.)   (C.S.N., J.)
03.03.2025

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To

The Income Tax Appellate Tribunal,
Madras "A" Bench.

S.S. SUNDAR, J.
and
C. SARAVANAN, J.

ASI

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