

HIGH COURT OF MADHYA PRADESH : BENCH AT INDORE

D.B.: HON'BLE MR. S. C. SHARMA AND
HON'BLE MR. SHAILENDRA SHUKLA, JJ

INCOME TAX APPEAL No. 133 / 2006
THE COMMISSIONER OF INCOME TAX
Vs.
M/S. STI POWER INDIA LTD.

INCOME TAX APPEAL No. 134 / 2006
THE COMMISSIONER OF INCOME TAX
Vs.
M/S. STI POWER INDIA LTD.

INCOME TAX APPEAL No. 136 / 2006
THE COMMISSIONER OF INCOME TAX
Vs.
M/S. STI POWER INDIA LTD.

* * * * *

ORDER
(31/10/2019)

PER : S. C. SHARMA, J :-

The present appeal has been filed u/S. 260A of the Income Tax Act 1961 by the Commissioner of Income Tax Indore against the order passed by the Income Tax Appellate Tribunal. The Central Board of Direct Taxes has issued a circular No. 3/2018 fixing the monetary limit for filing of appeals before the High Courts and before the Supreme Court. However, certain appeals are to be decided on merits. Paragraph 10 of the Circular dated 11/07/2018 reads as under:

Para 10 of the Circular dated 11/7/2018 reads as under :

10. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect :
- (a) Where the Constitutional validity of the provisions of an Act or Rule is under challenge, or

- (b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or
- (c) Where Revenue Audit objection in the case has been accepted by the Department, or
- (d) Where the addition relates to undisclosed foreign assets / bank accounts.

That the circular no. 3/2018 was further revised by the circular dated 20/08/2018 and paragraph 10 was amended as under :

3. Para 10 of the said Circular provides that adverse judgments relating to the issues enumerated in the said para should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 thereof or there is no tax effect. Para 10 of the Circular No.3 of 2018 dated 11/7/2018 is hereby amended as under:

10. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect :

- (a) Where the Constitutional validity of the provisions of an Act or Rule is under challenge, or
- (b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or
- (c) Where Revenue Audit objection in the case has been accepted by the Department, or
- (d) Where the addition relates to undisclosed foreign income / undisclosed foreign assets (including financial assets) / undisclosed foreign bank account.
- (e) Where addition is based on information received from external sources in the nature of law enforcement agencies such as CBI / ED / DRI / SFIO / Directorate General of GST Intelligence (DGGI).
- (f) Cases where prosecution has been filed by the Department and is pending in the Court.

Thereafter another circular was issued on 08/08/2019 and the monetary limit was enhanced to Rs. 1.00 crore in respect of High Court. A further clarificatory circular was issued on 6th September, 2019 and the Department has been permitted, irrespective of valuation, to file an appeal on merits in cases involved in organized tax evasion activity (Circular dated 6th September, 2019).

The present appeal is covered under the circular issued by the

--- 3 ---

Department and the learned counsel for the appellant prays for withdrawal of the present appeal. The prayer is allowed. The appeal is dismissed as withdrawn. However, the question of law is left open.

(S. C. SHARMA)
J U D G E

(SHAIENDRA SHUKLA)
J U D G E

KR

Digitally signed by Kamal Rathor
Date: 2019.11.04 13:06:24 +05'30'