IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.04.2015

CORAM

The Honourable Mr.JUSTICE R.SUDHAKAR
and
The Honourable Ms.JUSTICE K.B.K.VASUKI

Tax Case (Appeal) Nos.32 to 34 of 2015
& connected M.Ps.

The Commissioner of Income Tax
Central Circle III,
Chennai - 600 034.
... Appellant in the above T.C.(A)s/Appellant

Vs.

M/s.Rajarathinam Constructions (P) Limited
No.20, Anderson Street,
Ayanavaram,
Chennai - 600 023.
... Respondent in the above T.C(A)s/Respondent

APPEALs under Section 260-A of the Income Tax Act against the order dated 07.07.2014 made in I.T.A.Nos.1062 to 1064/Mds/2013 on the file of the Income Tax Appellate Tribunal, 'A' Bench for the assessment years 2006-07 to 2008-09.

against the order of the Commissioner of Income Tax(Appeals) – I, 46, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034 dated 29/01/2013 and made in ITA N. 111, 112, 113/2012-13.
and
against the order of the Assistant Commissioner of Income Tax, Central Circle III(2) New Building 3rd Floor, 46/108 Mahatma Gandhi Road, Chennai – 34 dated 29.12.09 and made in PAN/GIR No:AACCR0215M of the assessment years 2006-07, 07-08 & 2008-09.

For Appellant : Mr.M.Swaminathan
Standing Counsel for Income Tax

C O M M O N J U D G M E N T
(Delivered by R.SUDHAKAR,J.)

The above Tax Case (Appeals) are filed by the Revenue as against the order of the Income Tax Appellate Tribunal raising the following substantial question of law:

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in allowing proportionate deduction under Section 80IB(10) ignoring the fact that the commercial area in the project exceeded the stautory limit as specified under Section 80IB (10)?"

2. The assessment in the above cases relate to the assessment years 2006-07 to 2008-09.

3. The issue involved in the above Tax Case (Appeals) that whether the assessee is entitled for deduction under Section 80IB(10) of the Income Tax Act has already been decided by this Court in T.C. (A)Nos.1014 of 2009, 857 of 2010 and 190 to 192 of 2012 and W.A.No.471 of 2010 dated 02.11.2012 reported in [2013] 29 taxmann.com 19(Madras) in favour of the assessee and against the Revenue holding that the assessee is entitled to the claim of deduction but to the extent of each of the blocks satisfying the conditions under Section 80-IB(10) on a proportionate basis.

4. Hence, following the above-said decision of this Court, the above Tax Case (Appeals) are dismissed and the order of the Tribunal stands confirmed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sl

To

1. The Assistant Registrar,
   The Income Tax Appellate Tribunal,
   "A" Bench, III Floor, Rajaji Bhavan,
   Besant Nagar,
   Chennai - 600 090.

2. The Commissioner of Income Tax (Appeals)-I,
   46, Mahatma Gandhi Road,
   Nungambakkam, Chennai - 600 034.

3. The Assistant Commissioner of Income Tax,
   Central Circle-III(2),
   New Building, 3rd Floor,
   46/108, Mahatma Gandhi Road,
   Chennai - 34.

+1cc to Mr.S.Sridhar, Advocate, S.R.No.18916
+3cc's to M/s.M.Swaminathan, Advocate, S.R.No.18839

Tax Case (Appeal) Nos.32 to 34 of 2015
& connected M.Ps.

UG(CO)
CA(28/04/2015)