

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WEDNESDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FIFTEEN

PRESENT

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

I.T.T.A. No.45 of 2015

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Between:

Principal Commissioner of Income Tax-3,

... Petitioner

And

M/s. Sree Rayalaseema Green Energy Limited

... Respondent

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

I.T.T.A. No.45 of 2015

ORDER: (Per the Hon'ble Sri GC, J)

This appeal is filed under Section 260-A of the Income Tax Act, 1961 against the order dated 07.11.2014 of the Income Tax Appellate Tribunal, Hyderabad Bench, raising the substantial question of law as set out below:

“In the facts and circumstances of the case, whether the Hon'ble Tribunal (ITAT) is correct in law in holding that the sale of carbon credits is capital receipt relying on its own decision in the case of My Home Power Limited, wherein the Hon'ble Tribunal (ITAT) itself had held that 'carbon credit' is an entitlement “and this is a privilate” which is not a capital receipt?”

A perusal of the order dated 07.11.2014 of the Tribunal, followed its own order passed in the case of **MY HOME POWER LIMITED Vs. DCIT** and now it is fairly brought to the notice of this Court by the learned senior standing counsel Sri B.Narasimha Sharma that the appeal against the order of the Tribunal one supra has been dismissed by this Court by order dated 19.02.2014 in **COMMISSIONER OF INCOME-TAX Vs. MY HOME POWER LIMITED** wherein this Court answered the questions in favour of the Assessee and against the Revenue holding that the sale of excess carbon credits the income was a capital receipt and not a business receipt or income. Accordingly, the question of law raised in the present case resolved in favour of the Assessee and against the Revenue. Thus, the appeal is liable to be dismissed and accordingly the same is dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, shall stand dismissed.

JUSTICE G.CHANDRAIAH

JUSTICE CHALLA KODANDA RAM

Date: 17.06.2015

LSK