IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15/6/2016

C O R A M

The Honourable **Mr.Justice S.Manikumar**
and
The Honourable **Mr.Justice D.Krishnakumar**

Tax Case Appeal No.801 of 2008

The Commissioner of Income Tax
Chennai. ... Appellant

Vs

Miot Hospitals Ltd
4/112 Mount Poonamallee Road
Manapakkam
Chennai 600 089. ... Respondent

Prayer: Appeal filed against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai dated 4/4/2007 in ITA No.2748/Mds/2005.

For appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel
for Income Tax.

For respondent : Mr.R.Sivaraman

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J U D G M E N T

(Judgment of the Court was made by S.Manikumar,J)

This Appeal has been filed against the order of the Income Tax Appellate Tribunal, 'B' Bench, Madras, dated 4/4/2007.

2. The substantial questions of law raised in the instant appeal are:-

> "1. Whether in the facts and circumstances of the case, the Tribunal was right in holding that the disallowance under Section 40 A (2) of lease rental paid for machinery cannot be done unless the machinery is examined by an expert valuer, even though the written down value of the machinery was available?
>
> 2. Whether in the facts and circumstances of the case, the Tribunal was right in holding that disallowance under

Section 40 A(2) cannot be made as no such disallowance was made in the years 1995 – 96 and 1996 – 97?"

3. Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for Income Tax submitted that the tax implication in the instant appeal is less than the ceiling limit fixed by the Circular bearing No.21 of 2015, dated 10/12/2015. He further submitted that as per the Circular, Tax Case Appeals have been instructed to be withdrawn, subject to the matters covered under the circular.

4. Placing on record the above submissions, while dismissing the Tax Case Appeal No.801 of 2008, as withdrawn, substantial questions of law raised are left open. No costs.

(S.M.K.,J) (D.K.K.,J)
15th June 2016.

mvs.

Index: yes/No

website: Yes/No.

S.MANIKUMAR,J

a n d

D.KRISHNAKUMAR,J

mvs.

<u>Tax Case Appeal No.801 of 2008</u>

<u>15/6/2016</u>