IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.1.2017

C O R A M

THE HON'BLE MR. JUSTICE HULUVADI G. RAMESH
AND
THE HON'BLE Dr.JUSTICE ANITA SUMANTH

Tax Case (Appeal) No.416 of 2014

Commissioner of Income Tax,
Coimbatore. ... Appellant

Vs

M/s. Sri Ranganathar Valves (P) Ltd.,
12/45, Thadagam Road,
Edayarpalayam,
Coimbatore 641 025. ... Respondent

Prayer:- Appeal filed under Section 260A of the Income Tax, 1961, against the Order of the Income Tax Appellate Tribunal, Chennai 'A' Bench, dated 30.12.2013, in I.T.A.No.1577/Mds/2012, against the Order of the Commissioner of Income Tax(A) in ITA.No.20A/11-12 dated 21.05.2012 against the Deputy Commissioner of Income Tax, Coimbatore dated 29.03.2011 for the Assessment Year 2009 - 10.

For Appellant : Mr.T.R.Senthilkumar

For Respondent : Mr.S.Sridhar

J U D G M E N T
(Judgment of the Court was delivered by Dr.Anita Sumanth, J.,)

The above Tax Case Appeal is preferred by the Revenue under Section 260A of the Income Tax Act, 1961, calling in question the correctness of order dated 30.12.2013, passed by the Income Tax Appellate Tribunal, Chennai, in I.T.A.No.1577/Mds/2012.

2. The following questions of law, have been raised for consideration:-

"(i) Whether under the facts and circumstances of the case, the Hon'ble Income Tax Appellate Tribunal was right in law in holding that assessee is entitled to deduction under Section 80 IA without setting off the losses/unabsorbed depreciation pertaining to the windmill power generation business, which were set off in the earlier year against other business income of the assessee, following the decision of the jurisdiction High Court in the case of M/s.Velayudhasamy Spinning Mills V. Assistant Commissioner of Income Tax (340 ITR 477) when the same is pending appeal before the Hon'ble Supreme Court in SLP Civil No.1136/11?

(ii) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that the initial assessment year in Section 80 IA(5) would only mean the year of claim of deduction under Section 80 IA and not the year of commencement of eligible business?

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee has the option to choose the first/initial assessment year of claim for deduction under Section 80 IA?"

3. The issue relating to the claim of depreciation on windmill without setting off the losses/unabsorbed depreciation of earlier years stands covered against the Revenue and in favour of the assessee by a decision of this court in M/s.Velayudhasamy Spinning Mills V. Assistant Commissioner of Income Tax (340 ITR 477), affirmed by the Supreme Court.

4. In this view of the matter, there is no merit in the Departmental appeal which stands dismissed at the stage of admission. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssk

To

1.The Deputy/Assistant Registrar,
Income Tax Appellate Tribunal,
Chennai 'A' Bench.

2.The Commissioner of Income Tax,
(Appeals - I), Coimbatore.

3.The Deputy Commissioner of Income Tax,
Company Circle - I(3),
Coimbatore.

+1cc to Mr.T.R.Senthilkumar, Advocate, S.R.No.4864
+1cc to Mr.S.Sridhar, Advocate, S.R.No.4697

T.C.A.No.416 of 2014

TM(CO)
CA(28/02/2017)