IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2017

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THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
And
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

T.C.A.No.98 of 2017

Commissioner of Income Tax,
Corporate Circle - 3,
Chennai. ... Appellant

Vs.

M/s.Tagros Chemicals India Limited,
Jhaver Centre, Raja Annamalai Building
72, (Old No.19) Marshall's Road,
Egmore, Chennai - 600 008. ... Respondent

Prayer:
Appeal filed under Section 260-A of the Income Tax Act, 1961, against the order dated 27.07.2016 passed in I.T.A.No.457/MDS/2016 by the Income Tax Appellate Tribunal, 'A' Bench, Chennai against the order of the Commissioner of Income Tax Appeal II, No.121 Mahatma Gandhi Road, Chennai 600 034 dated 05.02.2016 in ITA NO.550/CIT (A)-II/2013-14 and

against the order of the Assistant Commissioner of Income Tax Company Circle-III, (1) Chennai 34 dated 24.07.2012 in PAN AACT2952K/2012-13

For Appellant : Mr.M.Swaminathan
For Respondent : Mr.M.P.Senthil Kumar

J U D G M E N T
(Judgment of the Court was delivered by RAJIV SHAKDHER,J.)

1. This appeal is directed against the order of the Income Tax Appellate Tribunal (in short 'the ITAT') dated 27.07.2016. The Revenue has raised the following three questions of law:

> "1. Whether on the facts and circumstances of the case and in law, the Tribunal was right in holding that the order under Section 154 is bad in law and cannot be sustained as the notice under Section 154 was not issued to the assessee and opportunity was not given?

2. Whether on the facts and the circumstance of the case and in law the Tribunal was right in holding that no notice was issue under Section 154 even though the notice under Section 154 was issued to the assessee on 3.5.2012 and assessee filed a reply vide its letter dated 4.5.2012 which is available on record and hence fining of the Tribunal is perverse?

3. Whether on the facts and circumstances of the case and in law, the Tribunal was correct in holding that the 50% of the remaining additional depreciation, pertains to the new machinery installed in the financial year 2007-08 (AY 2008-09) and utilized for less than 180 days is allowable in the assessment year 2009-10?"

2. As would be evident, the third question of law deals with the merits of the matter.

3. Mr.M.Swaminathan, counsel for the Revenue fairly concedes that, in view of the judgment passed today (06.03.2017), in T.C. (A.) No.157 of 2017 titled: Commissioner of Income Tax Vs. M/s.Shri.T.P.Textiles Private Limited, on merits, the matter is covered against the Revenue.

4.In that view of the matter, we are not inclined to interfere with the impugned order of the Tribunal.

4.1. Making it clear, we have not taken a view either way with regard to question Nos.1 and 2.

5. The appeal is accordingly, dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal,
'A' Bench, Rajai Bhavan, Besant Nagar, Chennai.

2. The Assistant Commissioner of Income Tax,
Company Circle III (1), Chennai-34.

3. The Commissioner of Income Tax Appeal-II,
No.121, Mahatma Gandhi Road, Chennai 600 034.

4. The Asst. Registrar, Income Tax Appellate Tribunal,
Rajaji Bhavan, IV Floor, Besant Nagar,
Chennai -90.

+ 1 cc to Mr.Swaminathan, Advocate Sr.14608
+ 1 cc to Mr. Baskar, Advocate Sr.14485

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MG(CO)
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