IN THE HIGH COURT OF JUDICATURE AT MADRAS

25.01.2017

Coram:

The Hon'ble Mr.Justice HULUVADI G.RAMESH
AND
The Hon'ble Dr. Justice ANITA SUMANTH

T.C.A. No.511 of 2007

Commissioner of Income Tax,
Chennai. .. Appellant

Versus

M/s.Mercantile Credit Corporation Ltd.,
36-40, Armenian Street,
Chennai 600 001. .. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the Order of the Income Tax Appellate Tribunal Madras 'A' Bench, dated 31.03.2006 in ITA. No.1792/Mds/1996.

For Appellant .. Mr.T.R.Senthil Kumar

For Respondent .. Mr.R.Vijayaraghavan
for M/s.Subbaraya Aiyar

JUDGMENT

The Tax Case Appeal filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal

Madras 'A' Bench, dated 31.03.2006 in ITA. No.1791/Mds/1996, has been admitted on 20.06.2007 for consideration of the following substantial questions of law:

> *“Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessee is entitled to depreciation on assets which were retained by the lessees even after expiry of the lease?*
>
> *2.Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessing officer has to prove the non user of the assets to deny depreciation?*
>
> *3.Whether in the facts and circumstances of the case, the assets which are not used for any income earning activity by the assessee, but left with the lessees even after the expiry of the lease can be said to be used in the business of the assessee?”*

2. Circular instruction issued by the Central Board of Direct Taxes No.21/2015, dated 10.12.2015 stipulates that appeals shall not be filed/ pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.20 lakhs. In the instant case, the tax effect is less than the monetary limit imposed and the appeal is, hence, dismissed as

not pressed, preserving the substantial question of law for determination in an appropriate case. No costs.

(H.G.R.,J) (A.S.M.,J)
25.01.2017
2/2

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HULUVADI G.RAMESH, J
AND
Dr.ANITA SUMANTH,J
vga

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2/2