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.44 of 2013

Commissioner of Income Tax,
Coimbatore. ... Appellant

Vs

M/s. Sri Ranganather Industries P Ltd.,
12/45, Thadagam Road,
Edayarpalayam,
Coimbatore 641 025.
PAN: AADCS0183Q ... Respondent

Prayer:- Appeal filed under Section 260A of the Income Tax, 1961, against the Order of the Income Tax Appellate Tribunal, Chennai 'D' Bench, dated 27.8.2012, in I.T.A.No.1207/Mds/2012 for the Assessment year 2009-10 against the order of the Commissioner of Income Tax (Appeals)-I, Coimbatore vide Appeal No.20/11-12 dt.21.03.2012 for the Assessment year 2009-10 against the order of Deputy Commissioner of Income Tax company circle-I(3) Coimbatore vide P.A.No/GIR No.AADCSO183Q dt.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 27.8.2012, passed by the Income Tax Appellate Tribunal, Chennai, in I.T.A.No.1207/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 right in law in holding that assessee is entitled to

deduction under Section 80IA without setting off the losses/unabsorbed depreciation pertaining to the windmill, 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 Vs. Assistant Commissioner of Income Tax (340 ITR 477) when the same is pending appeal before the Hon'ble Supreme Court in SLP Civil 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 80IA(5) would only mean the year of claim of deduction under Section 80IA 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 prior to setting off of 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 Vs. 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

//True Copy//

Sub Assistant Registrar

ssk

To

1. The Income Tax Appellate Tribunal,
   D Bench, Chennai.

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

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

4. The Asst. Registrar,
   Income Tax Appellate Tribunal,
   IIIrd floor, Rajaji Bhavan,
   Besent Nagar, Chennai-90.

+1cc to Mr.Sakthi kumar, Advocate, S.R.No.4865
+1cc to Mr.Sridhar, Advocate, S.R.No.4696

SKV(CO)
RS(08/03/2017)

T.C.A.No.44 of 2013