HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE T.AMARNATH GOUD

ITTA.No.289 and 511 of 2017

Date:06.12.2017

Between:

Principal Commissioner of Income Tax,

Visakhapatnam.

.....Appellant

And:

M/s Kadakatla Rice Mill,

Tadepalligudem.

.....Respondent

Counsel for the appellant: Mr. B.Narasimha Sarma

Senior Standing Counsel for Income Tax Department

The Court made the following:

COMMON JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

These two appeals arise out of common order, dated 22.8.2016, in ITA.Nos.293 and 295/Vizag/2015 on the file of the Income Tax Appellate Tribunal, Visakhapatnam Bench, Visakhapatnam (for short 'the Tribunal') pertaining to the Assessment Years 2004-05 and 2006-07. The said appeals were filed by the Revenue against the order of the Commissioner of Income Tax (Appeals).

During the hearing of the appeals before the Tribunal, learned counsel for the assessee has pointed that the tax effect involved in the appeals was less than Rs.20 lakhs and that, therefore, following Circular No.21 of 2015, dated 10.12.2015, issued by the Central Board of Direct Taxes, the appeals are not maintainable. On recording that the departmental representative has not raised any objection to the said submission of the representative of the assessee, the Tribunal dismissed the appeals.

In the present appeal, the Revenue has raised a specific ground that though these cases fall below the monetary limit prescribed under the said Circular, they fall under exception-(c) of paragraph-8 of the said Circular, which pertains to cases involving the Revenue Audit Objection.

In our opinion, having not raised the plea that these cases fall under exception-(c) of paragraph-8 of the said Circular before the Tribunal, the Revenue cannot be permitted to raise the said plea for the first time before this Court.

In the light of the above, the appeals are dismissed.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE T.AMARNATH GOUD

06th December 2017
DR