HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE CHALLA KODANDA RAM

ITTA.No.685 of 2017

Date:30.10.2017

Between:
Principal Commissioner of Income Tax
Eluru.

..... **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:

JUDGMENT: (*per the Hon'ble Sri Justice Challa Kodanda Ram)*

This appeal is filed against order, dated 24.08.2016, of the Income Tax Appellate Tribunal, Visakhapatnam Bench, Visakhapatnam (for short 'the Tribunal'), in ITA.No.294/Vizag/ 2015.

2. The assessment made by the Assessing Officer on the income of the respondent - assessee for the Assessment Year 2004-05 was *suo motu* reviewed by the Commissioner of Income Tax (CIT), Rajahmundry, and the matter was remanded to the Assessing Officer. Questioning the said order, the assessee filed I.T.A. No.77/Vizag/2009. During the pendency of the appeal, the Assessing Officer passed a fresh assessment order on 29.12.2009. The said order was set aside by the CIT (Appeals) [for short, "CIT (A)"] by his order dt.10.4.2015, in the appeal filed by the assessee, in view of the order of the Tribunal, dt.4.8.2010 in ITA No.77/Vizag/2009. The Revenue filed ITA No.294/Vizag/ 2015 against the said order of the CIT (A). The Tribunal by its order under appeal has dismissed the said appeal by observing that as the very order of the CIT, which constituted the basis for the Assessing Officer to pass a fresh assessment order, itself was set aside by the Tribunal, the

fresh assessment made in pursuance of such order of the CIT, cannot be sustained.

3. At the hearing Mr. B. Narasimha Sarma, learned Senior Standing Counsel for the Income Tax Department, submitted that order dt.4.8.2010 of the Tribunal setting aside the order of the CIT was confirmed in the appeal filed before this Court and that besides the same, the value of the appeal is below Rs.20.00 lakhs, which is the minimum monetary limit prescribed under Circular No.21/2015, dt.10.12.2015 of the Central Board of Direct Taxes (CBDT) for maintaining the appeal.

4. In the above facts and circumstances of the case, the appeal is liable to be dismissed both on merits as well as on the ground of value of the appeal being below the monetary limit prescribed by the CBDT in its aforesaid Circular.

5. The Appeal is, accordingly, dismissed.

JUSTICE C.V. NAGARJUNA REDDY

JUSTICE CHALLA KODANDA RAM

30th October 2017

DR/BNR