IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case Appeal No.828 of 2009

The Commissioner of Income Tax
Salem. Appellant/Appellant

Vs.

M/s.Lakshmi Saraswathi Cotton Mills Ltd.,
Kuchipalayam, Thokkavadi (PO)
Tiruchengode 637 209. Respondent/ Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 2.9.2005 made in I.T.A.No.1447/Mds/1999 for the Assessment Year 1996-97

against the commisioner of Income Tax (Appeals)Vii, Chennai. 34 in ITA NO.3/99 -2000 dated 22.07.1999 against the Assistant Commisioner of Income Tax,company circle , Salem 636007, in PAN /GIR NO.47-053-C7-1398/JCIT/SR/SLM.

For Appellant : Mr.K.G.Usharani for
Mr.T.R.Senthilkumar,
Senior Standing Counsel

For respondent : Mr.K.Venkatesh
and Ms.Aarthi K.C

J U D G M E N T
(Delivered by DR.VINEET KOTHARI, J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 2.9.2005 made in I.T.A.No.1447/Mds/1999, by raising the following substantial questions of law:

> "(i) Whether the replacement of machinery parts will amount to revenue expenditure or not?
>
> (ii) Whether bringing into existence of a new asset or obtaining a new advantage would amount to revenue expenditure or not?"

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is less than the monetary limit imposed and therefore, the appeal is dismissed as not pressed, preserving the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ssk.

To,

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

2.The Commisioner of Income Tax,(Appeals)Salem 636007

3.The commisioner of Income Tax (Appeals)Vii, Chennai. 34

4. The Joint Commisioner of Income Tax,company circle ,Salem 636007

+1cc to Mr.T.R.Senthilkumar, Advocate SR.No. 82098

+1cc to Mr. K.Venkatesh, Advocate SR.No.82068

TCA No.828 of 2009

A.SK(23/01/2019)