IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Tax Case Appeal Nos.98 and 99 of 2009

The Commissioner of Income Tax-III,
Coimbatore ... Appellant/Appellant
in both the Appeals

-vs-

M/s.Shri Mookambiga Spinning Mills Ltd.,
Pongalur, Coimbatore. ... Respondent/Respondent
in both the Appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'B' Bench, dated 15.02.2005 in ITA Nos.1690/Mds/2002 and 1653/Mds/1999, for the Assessment year 1995-96 and Appeal against the order of the Commissioner of Income Tax(Appeals)-II, Coimbatore, dated 02.08.2002 in I.T.Appeal No.5-C/2002-03 and against the order of the Deputy Commissioner of Income Tax, Special Range-II, Coimbatore dated 10.03.1998 in PAN/GIR.NO.CX-2027.

For Appellant : Mr.T.R.Senthil Kumar

For Respondent : Mr.R.Sivaraman

COMMON JUDGMENT

[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

These appeals by the Revenue are directed against the order passed by the Income Tax Appellate Tribunal, Madras 'B' Bench, dated 15.02.2005 in ITA Nos.1690/Mds/2002 and 1653/Mds/1999, for the Assessment year 1995-96, respectively.

2.Heard Mr.T.R.Senthil Kumar, learned Counsel for the appellant/Revenue and Mr.R.Sivaraman learned Counsel for the Respondent/assessee.

3.These Appeals have been admitted on 12.03.2009, on the following Substantial Question of Law:

> "1.Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that expenditure on replacement of old machinery by purchase and installation of machinery was allowable as revenue expenditure?"

4.We have perused the order of Assessment as well as the Order passed by the Commissioner of Income Tax and we find that the tax effect in these appeals are lesser than the threshold limit mentioned in Circular No.3 of 2008, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue these Appeals in view of the low tax effect. Hence, the Appeals are dismissed and the Substantial Question of Law, framed for consideration, is left open. No costs. The Revenue is at liberty to seek for restoration of appeals, if at a later point of time, it is found that the tax effect is above the threshold limit.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal Madras 'B' Bench.
2.The Commissioner of Income Tax(Appeals)-III, Coimbatore.
3.The Deputy Commissioner of Income Tax, Special Range-II, Coimbatore.
+1 cc to Mr.R.Sivaraman, Advocate Sr.No.79622
+1 cc to Mr.T.r.Senthilkumar, Advocate Sr.No.79384

T.C.A.Nos.98 & 99 of 2009

KK(CO)
CSL/08.01.2019