IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2018

CORAM

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

Tax Case Appeal No.1216 of 2010

Commissioner of Income Tax-I,
Tiruchirapalli. ...Appellant

Vs.

M/s.Atlantic Fabrics ...Respondent

Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'C' Bench, dated 24.06.2010, made in ITA No.431/Mds/2010 against the order dated 26.02.2010 made in ITA. No.521/08-09, by the Commissioner of Income Tax (Appeals), Tiruchirapalli for the assessment year 2006 - 07 against the assessment order U/S.143(3) of the Income Tax Act, 1961, passed by the Deputy Commissioner of Income Tax, Circle - II, Trichy, dated 30.12.2008 for the assessment year 2006-07.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel.

For respondent : No appearance

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, Chennai 'C' Bench, Chennai, dated 24.06.2010, in ITA No.431/Mds/2010, by raising the following substantial question of law :

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in directing the Assessing Officer to allow depreciation at 80% on civil works and electrical installations which were separate from the Wind Mill and, therefore, were entitled for depreciation only at 10% ?

2. When the matter is taken up for hearing, the learned Standing Counsel for the Department 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.50.00 lakhs.

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and, therefore, the appeal filed by the Revenue is dismissed, as not pressed, keeping open the substantial question of law for determination in appropriate cases. No costs.

dixit

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To
1.The Income Tax Appellate Tribunal,
Chennai 'C' Bench,
Chennai.

2. The Commissioner of Income Tax (Appeals)
Tiruchirapalli.

3. The Deputy Commissioner of Income Tax,
Circle - II, Trichy.

+1CC TO MR.M.SWAMINATHA, ADVOCATE SR.NO.88244

TCA No.1216 OF 2010

ssd(CO)
kak(30/01/2019)