IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2018

CORAM

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

Tax Case (Appeal) No.3 of 2011

The Commissioner of Income Tax,
Chennai.
... Appellant/Appellant

-vs-

M/s.Nani Agro Foods (P) Ltd.,
32,Ottukara Chinniya St., Erode.
... Respondent/Respondent

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income-tax Appellate Tribunal, "B" Bench, Chennai, dated 06.08.2010, passed in I.T.A.No.309/Mds/2010 for the assessment year 2005-06. against the order dated:10/12/2009 on the file of commissioner of Income Tax (Appeals)-II made in ITA.412C/09-10 against the order dated:14/12/2007 on the file of Deputy Commissioner of Income Tax Circle-IV, Coimbatore made in PAN.GIR.No.AAACN6660Q.

For Appellant : M/s.K.G.Usharani

For Respondent : Mr.R.Venkatanarayanan
for M/s.Subaraya Aiyar Padmanabhan

JUDGMENT

(Judgment was delivered by T.S.Sivagnanam, J.)

This appeal by the appellant/Revenue is directed against the order of the Income-tax Appellate Tribunal, "B" Bench, Chennai, dated 06.08.2010, passed in I.T.A.No.309/Mds/2010 for the assessment year 2005-06.

2.Heard M/s.K.G.Usharani, learned counsel for the appellant/Revenue and Mr.R.Venkatanarayanan, learned counsel for the respondent/assessee.

3.This Appeal has been admitted on 24.02.2011, on the following substantial question of law:-

> "Whether on the facts and in the circumstances of the case, the Income Tax Tribunal was right in allowing the additional depreciation amounting to RS.5,60,590/- claimed under Section 32(1)(iia) of the Income Tax Act, 1961 in respect of wind mills?"

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 this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2018, 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 this Appeal in view of the low tax effect. Hence, the Appeal is 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 appeal if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cse

To

1.The Deputy /Assistant Registrar,
The Income-tax Appellate Tribunal, "B" Bench,
Chennai.

2.The Commissioner of Income Tax,
Chennai

3.The Commissioner of Income Tax,
(Appeals) II Coimbatore.

4.The Deputy Commissioner of Income Tax,
Circle IV, Coimbatore.

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.80759

+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No.80768

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VGI(CO)
GSP(24/12/2018)