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.93 of 2011

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

-vs-

M/s.Sri Rama Vilas Weaving Factor
SF No.2262, Puri Nagar,
Chinna Anandan Koil St.,
Karur - 639 002. ... Respondent/Appellant

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income-tax Appellate Tribunal, "C" Bench, Chennai, dated 08.10.2010, passed in I.T.A.No.1153/Mds/2009 for the assessment year 2005-06. and thus appeal preferred agianst the order dated 07.05.2009 made in ITA.No. 147/2007-2008 on the file of the commissioner of Income Tax (Apppeals) 44 Williams road, Contonment, Tiruchirapalli, and thus appeal preferred against the Order dated 23.11.2007 made in PAN.No.AABR 56/90C for the Assessment Year 2005-2006, Circle II Trichy on the file of the Deputy Commissioner of Income Tax Circle II, No.44, Williams Road, Tiruchirapalli.

For Appellant : M/s.R.Hemalatha/Mr.T.Ravi Kumar
Senior Standing Counsel

For Respondent : Mr.V.S.Jayakumar

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, "C" Bench, Chennai, dated 08.10.2010, passed in I.T.A.No.1153/Mds/2009 for the assessment year 2005-06.

2.Heard M/s.R.Hemalatha, learned Senior Standing Counsel for the appellant/Revenue and Mr.V.S.Jayakumar, learned counsel for the respondent/assessee.

3.This Appeal has been admitted on 15.03.2011, on the following substantial question of law:-

> "Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled for depreciation at the rate of 80% applicable to windmills even on the electrical fittings and civil work, on which depreciation was allowable only at the rate of 10%?"

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 Income-tax Appellate Tribunal,
"C" Bench, Chennai.

2.The Commissioner of Income Tax (Appeals),
No.44, Williams Road,
Tiruchirapalli.

3.The Deputy Commissioner of Income Tax,
Circle II, No.44, Williams Road,
Tiruchirapalli.

+1cc to Mr.R.S.Jaya Kumar, Advocate, S.R.No. 80616
+1cc to Mr.T.Ravi Kumar, Senior Standing Counsel for Income Tax Department, S.R.No. 80605

Tax Case (Appeal) No.93 of 2011

KJ(CO)
GN(07/01/2019)