IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.1497 of 2008

M/s.Prasad Productions P. Ltd.,
28, Arunachalam Road,
Saligramam,
Chennai-600 093 .... Appellant

-vs-

The Joint Commissioner of
Income Tax,
Media Range-I,
Chennai. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'B' Bench, dated 7.12.2007 in ITA No.2027/Mds/2006 for the Assessment year 2002-03.

For Appellant : Mr.V.Vikram for
Mr.R.Venkatanarayanan

For Respondent : Mr.M.Swaminathan for
Mrs.S.Premalatha

J U D G M E N T
[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

This appeal is filed by the assessee against the order passed by the Income Tax Appellate Tribunal, Madras 'B' Bench, dated 7.12.2007 in ITA No.2027/Mds/2006 for the Assessment year 2002-03.

2.Heard Mr.V.Vikram, Learned Counsel for the appellant and Mr.M.Swaminathan, Learned Counsel for the Revenue.

3.This Appeal has been admitted on 26.09.2008, on the following Substantial Questions of Law:
"1.Whether on the facts and circumstances of the case, the Tribunal was right in law in holding that the appellant is not entitled to deduction under Section 80IA of the Act in respect of windmill unit?
2.Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that for the purpose of computing deduction under Section 80IA of the Act, the profits of the windmill unit have to be computed for any assessment year as if it were the only source of income for the assessee and the earlier year's losses have to be taken into consideration for computing the profit of the current assessment year irrespective of the fact that the said loss have already been set off against the profits of other units in earlier years?

4.The above referred Substantial Questions of Law were considered by the Division Bench of this Court in the assessee's own case for the earlier Assessment Year in T.C.A.No.524 of 2008, dated 25.02.2015, in Prasad Productions P.Ltd. vs. Deputy Commissioner of Income Tax [reported in (2015) 92 CCH 0097 ChenHC] and decided in favour of the assessee. The operative portion of the judgement reads as follows:

8.The facts in the present case are also identical to the above-said decision of this Court that all the business undertakings are wind mills and they have claimed the benefit of deduction under Section 80IA of the Income Tax Act for the assessment years in question and the for subsequent year as well. Having exercised their option and their losses have been set off already against other income of the business enterprise, the assessee in this appeal falls within the parameters of Section 80IA of the Income Tax Act. In the decision reported in (2012) 340 ITR 477 (Velayudhaswamy Spinning Mills v. Asst. CIT), there appears to be no distinction on facts.

9.Again in a batch of cases in T.C.(A) Nos.408 of 2012, by order dated 12.01.2015, this Court, following the decision reported in (2012) 340 ITR 477 (Velayudhaswamy Spinning Mills v. Asst.CIT) held in favour of the assessee and against the Revenue.

10.We, therefore, taking note of the decision rendered by this Court in the case of Velayudhasamy Spinning Mills (supra) and in a batch of cases in T.C.(A) Nos.408 of 2012, are inclined to allow this Tax Case (Appeal), thereby set aside the order passed by the Tribunal.

11.In view of the above, the question of law is answered in favour of the assessee and against the Revenue. This Tax Case (Appeal) stands allowed. No costs.

5.Following the above decision, this Appeal, filed by the assessee, is allowed and the Substantial Questions of Law are answered in favour of the assessee. No costs.

[T.S.S., J.] & [V.B.S., J.]
18.09.2018

msk

Index:Yes/No

Internet:Yes/No

To

1.Income Tax Appellate Tribunal Madras 'B' Bench.
2.The Joint Commissioner of
Income Tax,
Media Range-I,
Chennai.

T.S.Sivagnanam, J.

and

V.Bhavani Subbaroyan, J.

msk

T.C.A.No.1497 of 2008

18.09.2018