IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case (Appeal) No.272 of 2007

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

-vs-

Dharani Finance Ltd.,
57, Sterling Road,
Nungambakkam,
Chennai. ... Respondent

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income-tax Appellate Tribunal Madras "A" Bench, Chennai dated 06.10.2006 in ITA No.451/Mds/2004 for the assessment year 1997-98, against the order passed by the Commissioner of Income Tax(A)III, Chennai-34, made in ITA.Tr.No.469/2001-02/A.III dated 06/11/2003 and against the order of the Joint Commissioner of Income Tax, Special Range IV, Chennai-34 made in PAN/G1.NO.36 D/97-98 dated 14/03/2000 for Assessment year 1997-98.

For Appellant : Mrs.R.Hemalatha
Senior Standing Counsel

For Respondent : Mr.N.Devanathan

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JUDGMENT

[Delivered by T.S.Sivagnanam, J.]

Heard Mrs.R.Hemalatha, learned Senior Standing Counsel for the appellant, and Mr.N.Devanathan, learned counsel for the respondent.

2.This appeal has been admitted on the following substantial questions of law:-

> "(i) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessee is entitled for the depreciation on the plant and machinery that was purchased by the assessee from Dharani Sugars and Chemicals Ltd. and resold back to same party?
>
> (ii) Whether in the facts and circumstances of the case, Explanation 4A to Section 43(1) could be invoked to disallow the depreciation on sale and leased back assets?"

3.Before we proceed to consider the substantial questions of law raised in this appeal, we have to first take note of the fact that the tax effect in the present appeal relevant for the assessment year 1997-98 is less than the threshold limit. In the case of Commissioner of Income Tax vs. N.Meenakshisundaram [Tax Case (Appeal) Nos.868 and 869 of 2008; Dated 23.04.2018], one of us (TSSJ) had an occasion to consider various circulars issued by the Central Board of Direct Taxes (CBDT) as regards the threshold limits fixed for filing the appeals by the Revenue or pursue the appeals, which are pending from 2008 onwards.

4.Further, it is relevant to note that by Circular No.3/2018, dated 11.07.2018, monetary limit has further been increased and appeals be maintainable before the High Courts. It has been increased to Rs.50,00,000/-. Hence, viewed from any angle, this appeal could not have been filed.

5.Thus, by applying the above Circular issued by the CBDT, this appeal ought not to have been filed by the Revenue and hence, for that reason, this tax case appeal is dismissed and the substantial questions of law, framed for consideration, are left open. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

(abr)

To

1.The Commissioner of Income Tax, Chennai.

2.The Income-tax Appellate Tribunal Madras “A” Bench, Chennai.

3.The Joint Commissioner of Income-tax,
Special Range IV, Chennai-34.

+1cc to Mr.T.Ravi kumar, Advocate sr.no.58430

T.C.(A) No.272 of 2007

nr 11/09/2018