IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

T.C. (Appeal).No.905 of 2008

Commissioner of Income Tax
Chennai ...Appellant

vs

M/s.Prasad Productions
28 Arunachalam Road
Saligramam
Chennai – 600 093 ...Respondent

Prayer:- Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal "B" Bench, Chennai dated 07.12.2007 in ITA No.2215/Mds/2006.

For Appellant : Mr.M.Swaminathan
Standing Counsel (Income Tax)

For Respondent : Mr.Vikram Vijayaraghavan

JUDGMENT

Heard Mr. M.Swaminathan, learned standing counsel appearing for the appellant and Mr.Vikram Vijayaraghavan, learned counsel appearing for the respondent/Assessee.

2. This appeal by the Revenue is directed against the order passed by the Income Tax Appellate Tribunal in ITA No.2215/Mds/2006 dated 07.12.2007 relating to the Assessment year 2002-03.

3.This Tax Case Appeal has been admitted on the following substantial question of law:

> *"1.Whether in the facts and circumstances of the case, the Tribunal was right in holding that the write off of expenditure incurred in respect of a teleserial that was abandoned could be treated as a business expenditure during the relevant assessment year, contrary to the provisions of Rule 9A of the Income Tax Rules?"*

4. The issue as to whether the cost of production of a abandoned teleserial/feature film shall be treated as Revenue expenditure or capital expenditure has to be decided as per the

Circular issued by the Central Board of Direct Taxes in Circular No.16/2015 dated 06.10.2015, wherein it is stated that the cost of production of an abandoned feature film is to be treated as revenue expenditure and allowed as per the provisions of Section 37 of the Income Tax Act. This circular was taken note of by the Division Bench of this Court in ***Tiruvengadam Investments Pvt. Ltd., Vs. Assistant Commissioner of Income Tax*** reported in ***(2016) 95 CCH 0024 ChenHC***. Though the circular pertains to a feature film, we find that there cannot be any distinction between tele-serial and feature film as the circular deals with the aspect regarding to the cost of production of a film. Hence, Circular No.16/2015 dated 06.10.2015 has full application to the facts of the present case.

Thus, for the above reasons, appeal filed by the Revenue is dismissed and the substantial question of law as framed is answered in favour of the assessee and against the Revenue. No costs.

[T.S.S.J.,] [N.S.S.,J]

04.04.2018

gpa

T.S.SIVAGNANAM.J.,

&

N.SESHASAYEE.J.,

gpa

To

The Income Tax Appellate Tribunal "B" Bench

Chennai

T.C.A.No.905 of 2008

04.04.2018