THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

I.T.T.A.M.P.No.585 of 2017
in/and
I.T.T.A.No.596 of 2017

03.01.2018

Between:

The Commissioner of Income Tax-I, Hyderabad

..Applicant/appellant

and

A.P. State Warehousing Corporation, Hyderabad

..Respondent

Counsel for the applicant/appellant: Mr.J.V.Prasad,
senior standing counsel for Income Tax Department

Counsel for the respondent: --

The Court made the following:

JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The Revenue has filed the present appeal against order, dated 22.07.2011, in I.T.A.No.651/Hyd/2007, pertaining to assessment year 2003-04. It has raised the following substantial questions of law in the present appeal.

> "1. Whether, on the facts and in the circumstances of the case, the Tribunal is correct in law in deleting the addition of Rs.83,47,888/- made by the Assessing Officer towards transit loss?
>
> 2. Whether, on the facts and in the circumstances of the case, the Tribunal is correct in law in holding that the wooden crates are entitled to depreciation at 100%?"

2. As regards I.T.T.A.M.P.No.585 of 2017, though the present appeal was filed in the year 2011, it was returned by the Registry and the applicant-appellant failed to represent the same for a substantially long period, as a result of which, delay of 2,038 days was caused in representation of the appeal. Though we are very reluctant to condone such a long delay, in the view we are proposing to take in the appeal, we have condoned the delay.

3. As regards the appeal, in the order under appeal, the Tribunal has referred to and relied upon its order passed in favour of the respondent-assessee for the previous assessment year. On 27.12.2017, we adjourned the case to enable the learned standing counsel appearing for the applicant-appellant to ascertain whether an appeal was filed by the Revenue against the said order. Today, at the hearing, the learned

standing counsel has submitted that they are unable to find out whether an appeal has been filed or not. It is, therefore, reasonable to presume that the Revenue has allowed the order of the Tribunal passed in favour of the respondent-assessee for the previous assessment year to become final. The learned standing counsel does not dispute that the issues raised in the appeals filed before the Tribunal pertaining to both the assessment years are identical. As the order of the Tribunal on the basis of which the order under appeal has been filed has attained finality, we are not inclined to interfere with the order under appeal. Accordingly, the questions of law raised by the Revenue are answered against it.

4. In the result, the delay is condoned and I.T.T.A.M.P.No.585 of 2017 is ordered accordingly. The order under appeal is confirmed and I.T.T.A.No.596 of 2017 is dismissed.

C.V.NAGARJUNA REDDY, J

T.AMARNATH GOUD, J

03rd January, 2018
GHN