

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE DR.JUSTICE ANITA SUMANTH

T.C.A.No.2049 of 2008

and

M.P.No.1 of 2008

Commissioner of Income Tax
Chennai.

... Appellant

.. Vs ..

M/s Consolidated Civil Construction (I) Ltd,
2G and 2E, Lakshmi Bhavan,
609 Anna Salai,
Chennai 600 006.

... Respondent

Prayer :- Tax Case (Appeal) filed under Memorandum of appeal under Section 260-A of the Income Tax Act, 1961, against the order of the Income-tax Appellate Tribunal, Madras "A" Bench, dated 26.02.2008, passed in ITA.No.464/mds/06 for the block assessment period 2000-01.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.N.V.Balaji

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ORDER

(Delivered by **DR.VINEET KOTHARI,J**)

This Tax Case has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'A' Bench by raising the following substantial questions of law:

"1.Whether in the facts and circumstances of the case, the Tribunal was right in law in allowing the depreciation claim on the boilers at the rate of 100% even though the copy of bill and invoice produced by the assessee mentions the asset as 'spray drier'?

2.Whether in the facts and circumstances of the case, the Tribunal was right in holding that the sale and lease back transaction is genuine and thereby allowing depreciation on the boilers at the rate of 100%?".

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.07.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Tax Case filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case. Connected miscellaneous petition is also dismissed.

(V.K.,J.) (A.S.M.,J.)

22.01.2019

(2/3)

Index : Yes/No
Internet : Yes
Jrl/Dua

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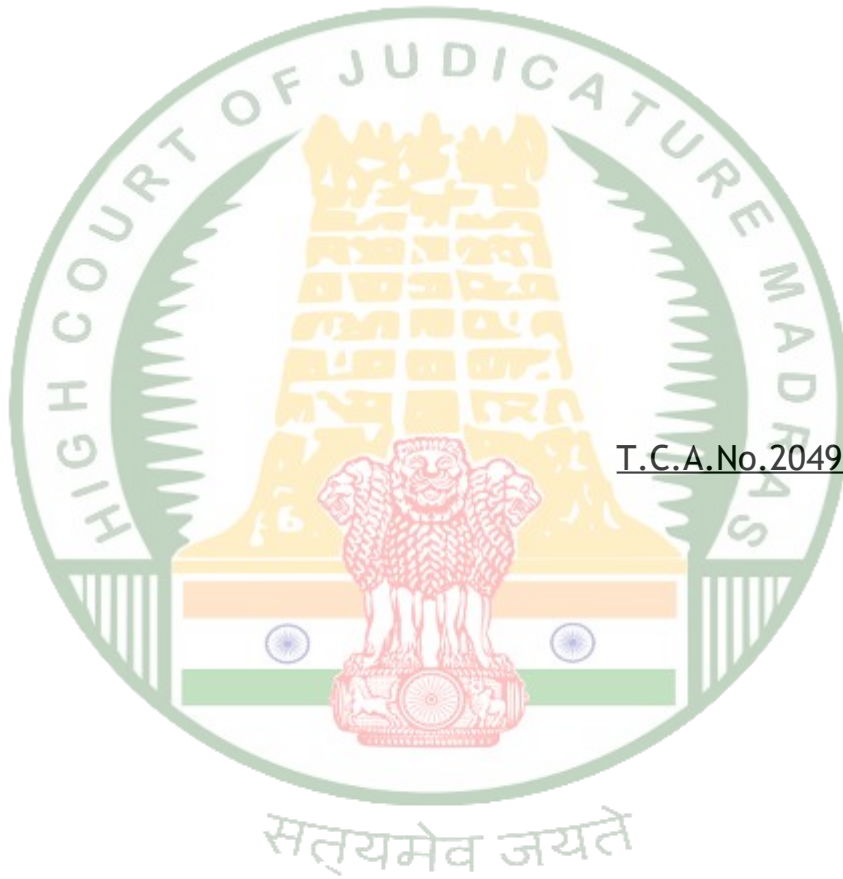
M/s Consolidated Civil Construction (I) Ltd,
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DR.VINEET KOTHARI, J.
and
DR.ANITA SUMANTH, J.

Dua



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