IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case Appeal No.2052 of 2008

Commissioner of Income Tax
Chennai. Appellant

Vs.

NEPC Agro Foods Ltd
36 Wallajah Road
Chennai 600 002 Respondent

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 25.01.2008 made in ITA No.163/Mds/2001.

For Appellant : Mr.Prabhu Mukunth Arunkumar
Standing counsel

For Respondent : Mr.R.Sivaraman

JUDGMENT

(Delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal Madras 'B' Bench, Chennai, dated 25.01.2008, made in I.T.A.No.163/Mds/2001 by raising the following substantial questions of law:

"1. Whether on the facts and circumstances of the case, the Tribunal was right in remanding the matter to the assessing officer to follow the judgement in the case of Kothari Sanitation & Tiles P. Ltd., when both the lower authorities have given concurrent findings of fact that the assessee has chosen to pay in cash in situations that did not warrant the same?

2.Whether on the facts and circumstances of the case, the Tribunal was right in remanding the matter to the assessing officer to grant depreciation on the amounts if found to be capital expenditure, failing to see that the amounts were spent on various types of deposits which are not depreciable assets?

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 11.7.2018 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 appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial question of law for determination in an appropriate case.

(V.K.,J.) (C.V.K.,J.)
08.04.2019

Index : Yes/No
Internet : Yes/No
arr

To

1.NEPC Agro Foods Ltd
36 Wallajah Road,
Chennai 600 002.

2.The Income Tax Appellate Tribunal, Madras 'B' Bench,
Chennai

DR.VINEET KOTHARI, J.
and
MR.C.V.KARTHIKEYAN, J.

arr

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(2/2)

08.04.2019