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.192 of 2009

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

.. Vs ..

M/s Consolidated Civil Construction (I) Ltd,
2G and 2E, Lakshmi Bhavan, 609 Anna Salai,
Chennai 600 006. ... Respondent/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, Chennai "A" Bench, dated 19.08.2008, passed in ITA.No.1242/Mds/2006 for the block assessment period 1996-1997, against the order of the Commissioner of Income Tax (Appeals)-III, Chennai-34 and made in ITA.No.262/2005-06/A-III dated 17.02.2006 against the order of the Deputy Commissioner of Income Tax Company Circle-I(3), Chennai made in G.I/P.A.No.CXI.022/AAACC13700 dated 31.03.2003 for the Assessment year of 1996-97.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.N.V.Balaji

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 question of law:

"Whether in the facts and circumstances of the case, the Tribunal was right in deleting the penalty under Section 271 (1) (c) when the assessee had furnished false/inaccurate particulars to claim 100% depreciation on a sham sale and lease back transaction in respect of spray dryer and connected equipment, which is not allowable by law?".

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 question of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Jrl/Dua
To
1. The Commissioner of Income Tax,
Chennai.

2. The Income Tax Appellate Tribunal,
Madras 'A' Bench,

3. The Commissioner of Income Tax(Appeals)-III,
Chennai-34.

4. The Deputy Commissioner of Income Tax
Company Circle - I(3), Chennai.

+1cc to Mr.N.V.Balaji, Advocate, S.R.No.5368
+1cc to Mr.T.Ravikumar, Advocate, S.R.No.4878

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NMI(CO)
CS/07/03/2019