IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3.1.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case No.672 of 2008

The Commissioner of Income Tax
Tamil Nadu-III,Chennai. Appellant

Vs.

M/s.Mapcon Private Ltd.,
161 Greams Road, Chennai 600 006. Respondent

Tax Case filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 3.8.2007 made in ITA No.2140/Mds/2006 against the order dated 15/10/2004 made in ITA No.189/04-05 transferred in from CIT(A) V vide ITA No.7/04-05 passed by the Commissioner of Income Tax (Appeals)-VI, Chennai - 600 034 and against the order dated 26/12/2002 passed by the Deputy Commissioner of Income Tax, Company Circle IV(1), Chennai - 34 for the assessment year 1998-1999.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

For respondent : Mr.A.S.Sriraman for
Mr.S.Sridhar

J U D G M E N T

(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, 'B' Bench, Chennai, dated 3.8.2007 made in ITA No.2140/Mds/2006 by raising the following substantial questions of law:

> "(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the claim of the assessee in respect of the actual cost of

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Cinematographic films on sale and lease back transaction by invoking explanation 3 to Section 43(1) will apply to the facts of this case, even though explanation 4A will apply on the facts and circumstances of the case?

(ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that Cinematographic films is held to be eligible for 100% depreciation, even though as per No.3(ii), Appendix I of the depreciation table, bulbs of studio lights, are eligible for 100% depreciation?"

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 Tax Case filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS-III)

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Sub Assistant Registrar

To

1) The Commissioner of Income Tax,
Tamilnadu III, Chennai.

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

3) The Commissioner of Income Tax (Appeals)-VI,
Chennai - 600 034.

4) The Deputy Commissioner of Income Tax,
Company Circle IV(1), Chennai - 34

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SAI(CO)
SSM(31/01/2019)

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