IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2019

CORAM

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

Tax Case Appeal No.737 of 2008

Commissioner of Income Tax,
(Central)
Chennai. ... Appellant

Vs.

NEPC India Ltd.
36 Wallajah Road,
Chennai 600 002 ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 14.09.2007 made in ITA No.965/Mds/2003

For Appellant : Mr.Prabhu Mukund Arunkumar
for Mr.S.Rajesh
Standing counsel

For Respondent : Mr.R.Sivaraman

J U D G M E N T
(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 14.09.2007, by raising the following substantial questions of law:

"1. Whether on the facts and circumstances of the case, the Tribunal was right in holding that the issue of allowance of erection charges was a debatable issue, when the assessment order clearly finds that the windmills in question were not installed during the year?

2.Whether on the facts and circumstances of the case, the Tribunal was right in holding that the limitation for rectification u/s 154 should be calculated from the original order of assessment, and not from the date of order passed consequent to remand by the Commissioner of Income Tax (Appeals)?

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.)
25.03.2019

Index : Yes/No
Internet : Yes/No
arr

To

1.NEPC India 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

TCA No.737 of 2008

25.03.2019