IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2019

CORAM

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

Tax Case Appeal No.1448 of 2010

Commissioner of Income Tax-I,
Tiruchirapalli. Appellant / Respondent

Vs.

Shri B.Murugesh Respondent / Appellant

Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'D' Bench, dated 09.07.2010, made in ITA No.567/Mds/2010, against the order of the Commissioner of Income Tax (Appeals), Trichy dated 04/02/2010 made in ITA No.563/08-09 against the Deputy Commissioner of Income Tax, Circle II, Trichy dated 26/12/2018, Assessment year 2006-2007.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel.

For respondent : Mr.Venkatanarayanan,
for M/s.Subbraya Aiyar Padmanabhan

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, Chennai 'D' Bench, dated 09.07.2010, in ITA No.567/Mds/2010, by raising the following substantial question of law :

> " Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled for depreciation at the rate of 40% applicable to windmills even on the electrical fittings and civil work, on which depreciation was allowable only at the rate of 5% ?

2. When the matter is taken up for hearing, learned Standing Counsel for the Department 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.50.00 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 appropriate cases. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

dixit

To

1) The Income Tax Appellate Tribunal,
Chennai -D- Bench,
Chennai.

2) The Commissioner of Income Tax (Appeals),
No.44, Williams Road, Cantonment,
Trichy - 620 001.

3) The Deputy Commissioner of Income Tax,
Circle II, No.44, Williams Road, Cantonment,
Trichy - 620 001.

+1 cc to Mr.M.Swaminathan, Advocate, S.R.No.2661

+1 cc to Mr.Subbaraya Aiyar, Advocate, S.R.No.3491

TCA No.1448 OF 2010

VG-II(CO)
SSM(18/03/2019)