IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.618 of 2011

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

-vs-

M/s.The Standard Textiles,
Post Box No.78,
Balajinagar, Semmadai,
Salem Main Road, Karur. .. Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 22.06.2011, made in I.T.A.No.548/Mds/2011 on the file of the Income Tax Appellate Tribunal Bench 'A', Chennai for the assessment year 2005-06, and against the order dt.25/1/2011 , of the commissioner of Income Tax(Appeals), Trichy for the assessment year 2005-06, in G.I.NO/PA.NO.AAAFT1844M, and as against the order dt.3/12/07 of the Deputy Commissioner of Income Tax Tricy, for the assessment year 2005-06.

For Appellant :Mr.M.Swaminathan,
Senior Standing Counsel
:assisted by Ms.V.Pushpa
Standing Counsel

For Respondent :Mr.A.S.Sriraman
For Mr.S.Sridhar

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JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 22.06.2011, made in I.T.A.No.548/Mds/2011 on the file of the

Income Tax Appellate Tribunal Bench 'A', Chennai for the assessment year 2005-06.

2.The above appeal was admitted on 25.01.2012, on 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 deleting the disallowance of Rs.76,00,000/- being depreciation claimed by the assessee on the cost of the wind mill, which was only installed during the relevant previous year, but had not been used for generation of power and supply to the Tamil Nadu Electricity Board Grid which in any case would not have been possible without commissioning of the 22KV Enercon Feeder which was erected only in the subsequent year?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel for the appellant - and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned Counsel for the respondent.

4. The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019, dated 08.08.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial question of law framed is left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

To

1.The Income Tax Appellate Tribunal Bench 'A', Chennai.

2.The Commissioner of Income Tax(Appeals)
Trichy.

3.The Deputy Commissioner of Incometax,
Circle-II, Trichy.

+1cc to Mr.S.Sridhar, Advocate SR.72491
+1cc to Mr.M.Swaminathan, Advocate SR.73013

T.C.A.No.618 of 2011

SVI(CO)
CB(18/11/2019)