

In the High Court of Judicature at Madras
Dated : 21.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN
Tax Case Appeal No.808 of 2013

The Commissioner of Income
Tax, Salem

...Appellant

Vs

M/s.Sakthidaran Spintex Mills
(P) Ltd., Tiruchengode-637211.

...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 08.7.2013 made in ITA.No.754/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2008-09, against the order of the Commissioner of Income Tax(Appeals), Salem, in ITA No.163/2010-2011 dated 29/01/2013 against the Assessment order passed by the Assistant Commissioner of Income Tax, Company Circle, Salem, dtd 31.12.2010 for the Assessment Year 2008 09.

For Appellant :Mr.M.Swaminathan, SSC assisted by
Ms.V.Pushpa, SC

For Respondent: Mr.G.Baskar

Judgment was delivered by T.S.Sivagnanam, J

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel appearing for the appellant - Revenue and Mr.G.Baskar, learned counsel appearing for the respondent - assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 08.7.2013 made in ITA.No. 754/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2008-09.

3. The appeal was admitted on 28.1.2014 on the following substantial question of law :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is entitled for depreciation on civil construction/electrical fitting at a higher

rate of depreciation applicable to the windmill equipment at the rate of 80% by concluding that the said installations/ construction were integral part of the windmill ?”

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 08.8.2019 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

RS

To

- 1.The Income Tax Appellate Tribunal, Chennai 'D' Bench.
- 2.The Commissioner of Income Tax (Appeals), Salem.
- 3.The Assistant Commissioner of Income Tax,
Company Circle, Salem.

+1cc to Mr.M.Swaminathan, Advocate, SR.No.72002.

+1cc to +1cc Mr.G.Baskar, Advocate, SR.No.71652.

TCA.No.808 of 2013
21.8.2019

(CO)
CSR(19/12/2019)