In the High Court of Judicature at Madras
Dated : 02.1.2019

Coram :
The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mr.Justice N.SATHISH KUMAR

Tax Case Appeal No.842 of 2013

The Commissioner of Income Tax, Madurai ...Appellant

Vs

M/s.Sri Raju Spinning Mills Pvt. Ltd., Rajapalayam. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 24.11.2011 in ITA No.1184/Mds/2011 on the file of the Income Tax Appellate Tribunal Madras 'D' Bench for the assessment year 2007-08 against the order of the Commissioner of Income Tax (Appeals)-II Madurai in ITA No. 135/2009-10 dated 28.03.2011 for the Assessment year 2007-08 against the order of Assistant Commissioner of Income Tax, Circle-I, Virudhunagar dt.03/12/2019 for the assessment year 2007-2008

For Appellant : Mr.M.Swaminathan, SSC, Ms.V.Pushpa, JSC and Ms.S.Premalatha, JSC

For Respondent : Mr.P.J.Rishikesh

Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned Senior Standing Counsel for the appellant.

2. This appeal by the Revenue challenges the order passed by the Income Tax Appellate Tribunal, which decided the issue in favour of the assessee. The appeal was admitted on 10.4.2014 on the following substantial questions of law :

> "i. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the cost of transformer and civil work done in connection with the windmill, which are individual items and do not form part of the windmill, are eligible for higher rate of depreciation as eligible to windmill ? And
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> ii. Whether, on the facts and in the circumstances of the case, the Tribunal was right in granting higher rate of

depreciation when the entry in the schedule pertaining to the transformer and civil work indicate a lesser rate of depreciation at 15% only?"

3. The Revenue seeks to withdraw this appeal on account of low tax effect in terms of Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes.

4. In the light of the above, the appeal is dismissed as withdrawn and the substantial questions of law framed are left open. In the event the tax effect is above the threshold limit fixed in the said circular under exceptional clauses mentioned in the 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(CO)

//True Copy//

Sub Assistant Registrar

RS

To

1.The Income Tax Appellate Tribunal,
Madras 'D' Bench.

2.The Commissioner of Income Tax(Appeals)-II,
Madurai.

3.The Assistant Commissioner of Income Tax,
Circle-I,
Virudhunagar.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.60
+1cc to Mr.P.J.Rishikesh, Advocate, S.R.No.293

TCA.No.842 of 2013

SS(CO)

rrs 22/03/2019