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.750 of 2014

Commissioner of Income Tax,
Salem ...Appellant

Vs

M/s.Velathal Spinning Mills P. Ltd.,
Pallipalayam ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 02.5.2013 in ITA No.453/Mds/2013 on the file of the Income Tax Appellate Tribunal Madras 'A' Bench for the assessment year 2009-10.

Against the Order of the commissioner of Income Tax Appeals Salem dated 31.12.2012 in ITA.No. 263/11-12 in the assessment Year 2009-2010.

Against the Order of the Assistant Commissioner of Income Tax Circle 1(1) Salem dated 26.12.2011 AN/GIR No. AACV6931C in the assessment Year 2009-10.

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

For Respondent : M/s.G.R.Associates

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 Revenue has filed this appeal raising 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 ?"

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 In the light of the above, the appeal is dismissed as withdrawn and the substantial question of law raised is left open.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

To

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

2.The commissioner of Income Tax Appeals,
Salem.

3. The Assistant commissioner of Income Tax Circle 1 (1),
Salem.

+1cc to Mr.Swaminathan, Advocate, S.R.No. 72
+1cc to Mr.GR Associates Advocate, S.R.No. 13

TCA.No.750 of 2014

MG(CO)
GN(31/01/2019)