IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

CORAM

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

Tax Case Appeal Nos.721 and 722 of 2017

The Commissioner of Income-tax,
Chennai. .. Appellant in both Appeals

-vs-

M/s.C.Subba Reddy, HUF,
Sukrit, 19/1, Third Cross Street,
R.A.Puram, Chennai-600 026.
PAN: AACHC2523G .. Respondent in both Appeals

Appeals under Section 260A of the Income-tax Act, 1961, against the common order dated 06.10.2016, made in I.T.A.Nos.1834 & 1835/Mds/2016 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment years 2011-12 and 2012-13 respectively, against the order of the Commissioner of Income Tax(Appeals) Chennai in ITA.187/CIR(A)-2/2013-14 and ITA No.215/CIT(A)-2/2014-15 dated 30/3/2016 against the order of the Assistant Commissioner of Income Tax Non Corporate Circle-I, Chennai dated 29/3/14 and 31/12/14 for the assessment year 2011-12 and 2012-13.

For Appellant : Mr.T.Ravikumar
(In both Appeals) Senior Standing Counsel &

: Ms.R.Hemalatha
Senior Standing Counsel

For Respondent : Mr.A.S.Sriraman for Mr.S.Sridhar
(In both Appeals)

******

COMMON JUDGMENT

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

These appeals filed by the Revenue under Section 260A of the Income-tax Act, 1961 are directed against the common order dated 06.10.2016, made in I.T.A.Nos.1834 & 1835/Mds/2016 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment years 2011-12 and 2012-13 respectively.

2.The appeals have been admitted on 22.12.2017, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that disallowance made by the Assessing Officer with regard to the depreciation made on windmill is to be allowed?
>
> (ii) Is not the finding of the Tribunal bad, especially when the vendor, who had sold the windmill to the assessee, had claimed depreciation for more than four years and the WDV of the windmill as on the date of sale was only Rs.26.26 lakhs? and
>
> (iii) Whether the Tribunal was right in holding that disallowance made under Section 14A read with Rule 8D is not proper?"

3.Heard Mr.T.Ravikumar and Ms.R.Hemalatha, learned Senior 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 appeals are 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 appeals are dismissed on account of the low tax effect. 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, liberty is granted to the Revenue to make a mention to this Court to restore the appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//
Sub Assistant Registrar

abr

To

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

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

3.The Assistant Commissioner of Income Tax
Non Corporate Circle-I, Chennai.

+1cc to Mr.T.Ravikumar, Advocate SR.74357
+1cc to Mr.S.Sridhar, Advocate SR.75783

T.C.A.Nos.721 and 722 of 2017

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