IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case (Appeal) No.651 of 2011

The Commissioner of Income Tax-II
Chennai ... Appellant

Vs.

M/s.Super Spinning Mills Ltd
ELGI Towers, Green Fields
737-D, Puliakulam Road
Coimbatore. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'D' Bench, Chennai dated 21/04/2011 in ITA No.1672/Mds/2008, against the order dated 26/05/2008, made in Appeal No.257/07 on the file of the Commissioner of Income Tax (Appeals)-1, Coimbatore, against the order of the Assistant Commissioner of Income Tax Company Circle 1(2), Coimbatore, dated 29/12/2007, made in AADCS0672G u/sec.143(3) of the Income Tax Act 1961 for the Assessment year 2005-06.

For Appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel

For Respondent : Mr.S.Sridhar

J U D G M E N T

(Judgment of the Court was delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'D' Bench, Chennai, by raising 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 law in holding that the assessee's three wind mills installed at Muppandal, Palladam and Sanganeri were eligible for claiming deduction under Section 80IA and that too, considering each wind mill separate undertaking is valid?"

2. When the matter was taken up for hearing, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST
To
1.Income Tax Appellate Tribunal
'D' Bench,Chennai.

2.The Commissioner of Income Tax(appeals)-I,
Coimbatore.

3.The Assistant Commissioner of Income Tax,
Company Circle 1(2),
Coimbatore.

+1cc to Mr.S.Sridhar, Advocate SR.17961/20
+1cc to M/s.T.R.Senthil Kumar, Advocate SR.18582

T.C.(A) No.651 of 2011

GP(CO)
CB(17/06/2020)