IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2021

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.No.1430 of 2007

Commissioner of Income Tax,
Chennai. ... Appellant

Vs.

Citi Financial Retail Services (India) Ltd.,
117, Dr.Radhakrishnan Salai,
Chennai – 4. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, “A” Bench, dated 16.02.2007 in I.TA.No.3015/Mds/2005, Assessment Year 1996-97.

For Appellant : Mr.T.Ravi Kumar,
Senior Standing Counsel

For Respondent : Mr.V.S.Jayakumar

JUDGMENT
(Judgment was delivered by M.DURAISWAMY, J.)

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.V.S.Jayakumar, learned counsel for the respondent/assessee.

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 16.02.2007 made in I.TA.No.3015/Mds/2005 on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench (for brevity, the Tribunal) for the Assessment Year 1996-97.

3.The appeal was admitted on 19.11.2007 on the following substantial questions of law:

> *"1.Whether on the facts and in the circumstances of the case, the Tribunal was right in allowing the depreciation on wind energy generator when the lower authorities had given concurrent findings in two rounds of litigation that the*

transaction was purely a financing transaction ?

2.Whether the Tribunal was right in holding that the assessee is entitled to depreciation on the wind energy generator, when it was hypothecated to the assessee and not owned by it ?"

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 08.08.2019 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5.In the light of the said submissions, the above Tax Case Appeal is dismissed as withdrawn on account of the Low Tax Effect. The substantial questions of law framed are left open. In the event the tax effect in this case 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.

[M.D., J.] **[T.V.T.S., J.]**
02.03.2021

Index : Yes/No
Internet : Yes
mkn

To

1.The Income Tax Appellate Tribunal, Chennai, "A" Bench

2.The Commissioner of Income Tax,
Chennai.

M.DURAISWAMY, J.
and
T.V.THAMILSELVI, J.
mkn

T.C.A.No.1430 of 2007

02.03.2021