IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2021

CORAM

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

Tax Case No.303 of 2008

The Commissioner of Income Tax,
Tamil Nadu - III,
Madras ... Appellant

Vs.

M/s. Indus Finance Limited,
Kikani Towers II Floor,
Chennai - 600 006.

[Respondent name amended vide
order of this court dated 14.12.2016
made in T.C.No.303/2008] ... Respondent

Tax Case filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 15.06.2007 passed in I.T.A.No.436/Mds/2002, against the order dated 05/03/2002 made in ITA No.436/2001-2002 passed by the Commissioner of Income Tax (Appeals)-V, Chennai against the Assessment Order dated 16/03/2021, made in GIR No.465 passed by Income Tax Department, Joint Commissioner of Income- Tax, Special Range-X, Chennai for the Assessment year 1998-99.

For Appellant : Mr. M.Swaminathan
Standing Counsel
For Respondent : Mr. Koushik

J U D G M E N T

(Delivered by M. DURAISWAMY,J)

This Tax Case has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, by raising the following substantial question of law:-

" Whether on the facts and in the circumstances of the case the Appellate Tribunal was right in setting aside the order of the Commissioner of Income Tax (Appeals) and direct the assessing officer to allow the 100% depreciation on the two wind mills of the assessee, even though the assessee was not proved the ownership of the two wind mills to claim depreciation under section 32 of the Income Tax Act?"

2. When the matter is 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 Tax Case filed by the Revenue is dismissed as not pressed, keeping open the substantial question of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Rj
Toi

1.The Commissioner of Income Tax,
Tamil Nadu-III, Madras.

2.The Income Tax Appellate Tribunal,
'c' Bench, Chennai.

3.The Commissioner of Income Tax (A)-V,
Chennai-34.

4.The Joint Commissioner of Income Tax,
Special Range X, Chennai.

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srg 01/02/2021