IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM

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

Tax Case Appeal No.920 of 2009

Commissioner of Income Tax,
Chennai ... Appellant

v.

M/s.Subuthi Finance Limited,
15, Kadhar Nawaz Khan Road,
Chenna - 600 006. ... 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 31.03.2009 passed in ITA.No.876/Mds/2008 for the Assessment Year 2002-03.

Against the order of the Commissioner of Income Tax Appeals V, Chennai-34, in ITA.No.138/2005-06 dated 12/11/2007 in the assessment year 2002-03.

Against the order of the Assistant Commissioner of Income Tax Company Circle VI(4), Chennai, dated 29.03.2005 PAN/GIR No.AAFCS 4074A/5057 in the assessment year 2002-03.

For Appellant : Mr.J. Narayanasamy
Senior Standing Counsel

For Respondent : Mr.M. Kaushik
for Mr. S. Sridhar

J U D G M E N T
(Judgment was Delivered by M.DURAISWAMY, J)

We have heard Mr.J. Narayanasamy, learned Senior Standing Counsel for the appellant and M. Kaushik, learned counsel for the respondent.

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 31.03.2009 made in ITA.No.876/Mds/2008 for the Assessment Year 2002-03

3. The appeal was admitted on the following Substantial Questions 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 the account of 2 Wind Mills which was added to the fixed assets valued at Rs.1.8 crores when the Insurance Policy TNEB certificate, sale deed of the land relating to the windmills proved that the assessee was not the owner of the wind mill?"

4. The learned Senior Standing Counsel appearing 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5.In the light of the said submissions, the above Tax Case Appeal is dismissed as withdrawn on account of the Low Tax Effect.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 question of law framed is 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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Rj

To

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

2. The Commissioner of Income Tax Appeals V,
   121, Mahatma Gandhi Road, Chennai-34.

3. The Assistant Commissioner of Income Tax,
   Company Circle VI (4),
   121, Mahatma Gandhi Road,
   Chennai-34.

+1cc to Mr.Sridhar, Advocate, SR.No.18935.



MG(CO)
CSR: 19.04.2021