IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2021

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R. HEMALATHA

T.C.A.Nos.336 and 337 of 2017

The Commissioner of Income Tax,
Chennai. ... Appellant in all appeals

Vs.

M/s.Chennai City Centre Holdings Pvt Ltd.,
No.10-11, Dr. Radhakrishnan Salai,
Mylapore,
Chennai – 600 004. ... Respondent in all appeals

Tax Case Appeals in T.C.A.Nos.336 and 337 of 2017 preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, “A” Bench, dated 23.09.2016 in I.T.A.Nos.1000/Mds/2016 and 1001/Mds/2016, respectively for the Assessment Years 2010-11 and 2011-12 respectively.

Appeal against the order dated: 28/01/2016 made in ITA NO.216/2013-2014 (New ITA NO 163/CIT (A)-1/2013-2014) & ITA NO 321/2014-2015 (New ITA No.189/CIT(A)-1/2014-15) on the file of the Commissioner of Income Tax (Appeals)-1, Chennai for the assessment year 2010-2011 & 2011-2012 respectively.

Against the Order dated:19.03.2013 Made in PAN/GIR No AAACG3869Q on the file of the Additional Commissioner of Income Tax Company Range-I Chennai for the assessment year 2010-2011, and Against the order dated:29.03.2014 made in PAN/GIR No AAACG3869Q on the file of the Deputy Commissioner of Income Tax Company Circle-1(3) Chennai for the assessment year 2011-2012.

For Appellant : Mr.T.Ravi Kumar
Senior Standing Counsel
in all appeals

For Respondent : Ms.Sri Niranjani Srinivasan
for M/s.G.Baskar
in all appeals

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

We have heard Mr.T.Ravi Kumar, learned Senior Standing Counsel for the appellant/Revenue and Ms.Sri Niranjani Srinivasan, learned counsel for the respondent/assessee.

2.The above appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act), are directed against the order dated 23.09.2016 made in I.T.A.Nos.1000/Mds/2016 and 1001/Mds/2016, on the file of the Income Tax Appellate Tribunal, Madras, "A" Bench (for brevity, the Tribunal) for the Assessment Years 2010-11 and 2011-12 respectively.

3.The above appeals were admitted on the following substantial question of law:

> "Whether an assessee could avail 80% depreciation applicable to plant and machinery for civil works made for the purpose of setting up of a wind mill or whether such civil works would qualify for depreciation of 10% applicable in respect of buildings and other civil constructions?"

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 these cases is less than the threshold limit.

5.In the light of the said submissions, the above Tax Case Appeals are 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 these cases 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 above appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal,
Madras, “A” Bench.

2.The Commissioner of Income Tax,Appeal-I
Chennai-34.

3. The Additional Commissioner of Income Tax
Company Range-1, Chennai.

4. The Deputy Commissioner of Income Tax.
Company Circle-1(3) Chennai.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No.35170
+1cc to Mr.G.Baskar, Advocate, S.R.No.35426

T.C.A.Nos.336 and 337 of 2017

RSV(CO)
SB(10/08/2021)