IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MS.JUSTICE R.N.MANJULA

T.C.A.No.977 of 2019

Commissioner of Income-tax,
Coimbatore. .. Appellant

-vs-

The Sri Venkatesa Mills Ltd.,
Palani Road,
Venkatesa Mills Post,
Coimbatore-642 128. .. Respondent

Appeal under Section 260A of the Income Tax Act, 1961 against the order dated 03.04.2002 made in I.T.A.Nos.713 to 715/Mds/2001 on the file of the Income-tax Appellate Tribunal Chennai Bench 'B' for the assessment years 1992-93, 1993-94 & 1994-95 respectively. Against the commissioner of Income tax (Appeals) Coimbatore and made in dated 19.03.2001 for the assessment year 1992-93, 1993-94,1994-95 respectively, against the joint Commissioner of Income tax special Range-I, coimbatore and made in PAN No.47-021- CV 1108 dated 22.03.1999 for the assessment year 1992-93, 1993-94, 1994-95 respectively.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel
assisted by Ms.K.G.Usharani
Junior Standing Counsel

For Respondent : No appearance

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JUDGMENT

(Judgment of the Court was delivered by T.S.Sivagnanam, J.)

This appeal, filed by the Revenue under Section 260A of the Income Tax, 1961, is directed against the order dated 03.04.2002, made in I.T.A.Nos.713 to 715/Mds/2001 passed by the Income-tax Appellate Tribunal Chennai Bench 'B' for the assessment years 1992-93, 1993-94 & 1994-95 respectively.

2.The appeal was admitted on 16.12.2019, on the following substantial question of law:-

> "Whether the Tribunal is justified in allowing the replacement cost of machinery as revenue expenditure and cancelling the reassessments, ignoring the fact that the law was amended with effect from 01.04.1989 with regard to Section 147 governed the assessment years under consideration?"

3.We have elaborately heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Junior Standing Counsel appearing for the appellant/Revenue.

4.Though the respondent/assessee has been served and their name is printed in the cause list, none appears for the assessee.

5.After hearing the learned Senior Standing Counsel for the Revenue and carefully perusing the materials placed on record, we find that the order passed by the Tribunal is entirely on the facts, which were placed before the it and after taking note of the factual position, the Tribunal concluded that the Assessing Officer was not justified in treating the replacement of machinery as capital in nature and disqualifying the claim of the assessee. Since the matter has been decided solely on the factual consideration and the decisions of the Tribunal in the assessee's own case for the earlier assessment years, the thin line of difference which is sought to be pointed out in this appeal, cannot be regarded as a substantial question of law, as the decision taken by the Tribunal in the assessee's own case for the earlier assessment years was purely on facts. Therefore, we find that there is no substantial question of law arising for consideration in this appeal.

6.Accordingly, this appeal stands dismissed, as there is no substantial question of law arises for consideration. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1)The Income-tax Appellate Tribunal Chennai Bench 'B', Chennai.

2)The Commissioner of Income - Tax (Appeals) Coimbatore.

3)The Joint Commissioner of Income - Tax Special Range-I, Coimbatore.

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AAB(CO)
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