IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN
AND
THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

T.C.A.NO.1314 OF 2009

M/s.Gem Enterprises,
Cissons Complex,
No.150, Montieth Road
Egmore, Chennai - 600 008. ... Appellant

Versus

The Income Tax Officer,
Business Ward - VI(2),
Chennai - 600 034. ... Respondent

PRAYER:-

Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai dated 12.12.2008 passed in I.T.A.No.456/Mds/2008 for the Assessment Year 2004-2005.

Against the Order of the Commissioner of Income Tax (Appeals)-IX, Chennai, dated 31/12/2007 made in I.T.A.No.462/2006-2007

Against the Order of the Income Tax Officer, Business Ward-VI(2), Chennai, dated 29/12/2006 made in G.I.No./ P.A.No.AAAFG0520B

For Appellant : Mr.P.M.Kathir
For M/s.Philip George

For Respondent : Mr.T.Ravikumar
Senior Standing Counsel

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

Heard both sides and perused the materials placed on record.

2. This tax case appeal is filed by the appellant/assessee, assailing the order dated 12.12.2008 passed in ITA No.456/Mds/2008 by the Income Tax Appellate Tribunal, 'D' Bench, Chennai relating to the Assessment Year 2004-05.

3. On 30.11.2009, the aforesaid appeal was admitted on the following substantial question of law:-

> "Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the entire expenditure incurred in cash must be disallowed as per Section 40A(3) of the Income Tax Act, 1961, unless it falls under the proviso to the Section ?"

4. When this appeal is taken up for consideration, the learned counsel for the appellant/assessee fairly submitted that the relief sought in this appeal has become infructuous, since the order-in-original dated 12.12.2008 which is impugned herein, was recalled for fresh adjudication by order dated 19.03.2010.

5. Recording the same, this tax case appeal is dismissed as having become infructuous. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Maya

To

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

2. The Income Tax Officer,
Business Ward-VI(2),
Chennai - 600 034.

3. The Commissioner of Income Tax (Appeals)-IX,
Chennai.

+1cc to Mr.M.P.Senthil Kumar, Advocate, S.R.No.2080
+1cc to Mr.T.Ravikumar, Advocate, S.R.No.1871

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SSV(CO)
PBS/28/01/2022