IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

TCA.No.1454 of 2010

Commissioner of Income Tax - I
Tiruchirapalli. ...Appellant

Vs

Late Shri.R.Kannan
L/H Dr.Punithavathy Kannan
K.P.Hospital
No.96, Kovai Road, Karur. ...Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, "D" Bench, Chennai, dated 09.07.2010 in I.TA.No.566/Mds/2010 against the order dated 04.02.2010 made in ITA.No.562/2008-09 on the file of the Commissioner of Income Tax (Appeals), Tiruchirapalli for the Assessment year 2006-07 against the order date 26.12.2008 made in PAN.No.AHFPK9325D on the file of the Deputy Commissioner of Income Tax, Cricle-II, Trichy for the Assessment year 2006-07.

For Appellant : Mrs. V.Pushpa
Junior Standing Counsel

For Respondent : Mr.Subbaraya Aiyar

JUDGMENT

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

This tax case appeal has been filed by the appellant / Revenue, challenging the order dated 09.07.2010 passed by the Income Tax Appellate Tribunal, 'D' Bench, Chennai, in I.T.A.No.566/Mds/2010, relating to the assessment year 2006-2007.

2.By order dated 08.02.2011, this court admitted the aforesaid tax case appeal 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 assessee was entitled for depreciation at the rate of 80% applicable to windmills even on the electrical fittings and civil work, on which depreciation was allowable only at the rate of 10%?"

3.When the matter was taken up for consideration, the learned counsel for the appellant / Revenue brought to the notice of this court the Circular No.17/2019 dated 08.08.2019 issued by the Central Board Direct Taxes, wherein, it is stipulated that appeal 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). It is also submitted that the tax effect in this appeal is less than the threshold limit.

4.In the light of the aforesaid submissions made by the learned counsel for the appellant / Revenue, the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial question of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Income Tax Appellate Tribunal,
   “D” Bench, Chennai,

2. The Commissioner of Income Tax (Appeals)
   No.44, Williams Road, Cantonment,
   Tiruchirapalli - 620 001.

3. The Deputy Commissioner of Income tax,
   Circle - II, No.44, Williams Road,
   Tiruchirapalli - 620 001.

+1cc to Mr.M.Swaminathan, Standing Counsel, S.R.No.20845
+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No.20849

TCA.No.1454 of 2010

GMR(CO)
RGA(12/04/2022)