IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.03.2022

CORAM :

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

Tax Case Appeal No.1455 of 2010

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

-vs-

M/s. Mallow International,
SF 535, Semmadai,
Salem Bye-Pass Road, Karur. ...Respondent/Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order dated 09.07.2010 passed by the Income Tax Appellate Tribunal, Madras “D” Bench, Chennai in I.T.A.No.564/Mds/2010 and against the order of the Commissioner of Income Tax (Appeals), Tiruchirapalli dated 04.02.2010 and made in ITA.No.572/08-09 and against the order of the Deputy Commissioner of Income Tax Circle – II, Trichy dated 24.12.2008 and made in PAN.No.AABFM1014B for the Assessment year 2006-2007.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel
Ms.V.Pushpa

For Respondent : Mr.Vikram Vijayaraghavan
for Mr.Subbaraya Aiyar

J U D G M E N T
(Judgment was delivered by R. MAHADEVAN, J.)

This tax case appeal has been filed by the appellant / Revenue, calling in question the correctness of the order dated 09.07.2010 passed by the Income Tax Appellate Tribunal, 'D' Bench, Chennai, in I.T.A.No.564/Mds/2010, relating to the assessment year 2000-07. On 28.2.2011, this Tax Case Appeal is admitted on the following substantial questions of law:-

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled for depreciation at the rate of 80% and 40% applicable to windmills based on the date of

putting to use, even on the electrical fittings and civil work, on which depreciation was allowable only at the rate of 10% and 5%?"

2.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 appeals 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.

3.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-II)

//True Copy//

Sub Assistant Registrar

gba/msr

To

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

2. The Commissioner of Income Tax I,
   Tiruchirapalli.

3. The Commissioner of Income Tax (Appeals)
   Tiruchirapalli.

4. The Deputy Commissioner of Income Tax Circle-II,
   Trichy.

+1cc to M/s.Subbaraja Aiyar, Advocate, S.R.No.16111
+1cc to Mr.M.Swaminathan, Advocate, S.R.No.15644

Tax Case Appeal No.1455 of 2010

SV(CO)
RGA(01/04/2022)