IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE J. SATHYA NARAYANA PRASAD

T.C.A.No.287 of 2011

Commissioner of Income Tax - LTU
Chennai .. Appellant

Versus

M/s.Turbo Energy Ltd,
67, Chamiers Road,
Chennai - 600 028. .. Respondent

Prayer: Appeal preferred under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal "C" Bench, Chennai, dated 03.12.2010 passed in I.T.A.No.978/Mds/2005 for the Assessment Year 2001-02 against the order of the Income Tax Appellate Tribunal, Chnnai Bench C, Chennai dated 13.11.2009 passed in M.P.No.214/Mds/08(arising and of I.T.A.No.978/Mds/05) for the Assessment Year 2001-02; against the order of the Income Tax Appellate Tribunal, Chennai Bench 'C' Chennai, dated 08.02.2008 passed in I.T.A.No.978/Mds/2005 for the Assessment Year 2001-02; and against the Appellate order of the Commissioner of Income Tax (Appeals)-III, Chennai 600 034, dated 19.01.2005 in I.T.A.No398/2004-05/AIII for the Assessment Year 2001-02;

For Appellant : Mrs.R.Hemalatha
Senior Standing Counsel

For Respondent : Mr.Venkatanarayanan
for Mr.Subbaraya Aiyar Padmanabhan

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 of the Income Tax Appellate Tribunal "C" Bench, Chennai, dated 03.12.2010 passed in I.T.A.No.978/Mds/2005, relating to the assessment year 2001 - 02. In the order impugned herein, the Tribunal recorded the following findings:

> "...We are of the view that the learned CIT(A) was right in law in holding that the revised return filed by the assessee on 28.3.2003 was a valid return and in directing the Assessing Officer to consider the revised return filed and pass the necessary orders as it is found that the same was filed within the statutory time limit. In the circumstances, the finding of the learned CIT(A) is found to be on a right footing and does not call for any interference".

2.By order dated 16.08.2011, 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 holding that the revised return filed by the assessee was a valid return under Section 139(5) on the only ground that it was filled before an assessment under Section 143(3) was completed without adjudicating upon the important grounds of appeal raised by the Revenue regarding the validity of the revised return on the issue as to whether there was any omission or wrong statement in the original return filed by the assessee?"

3.Today, when the matter was taken up for consideration, the learned counsel for the appellant submitted that the assessee had filed its revised return of income on 28.03.2003, which was processed and an assessment order was passed by the assessing authority on 11.12.2008 and hence, there is nothing surviving for adjudication.

4.In view of the above submissions made by the learned counsel for the appellant, this court is of the opinion that the relief sought herein has become infructuous. Therefore, this tax case appeal stands disposed of, leaving the substantial question of law open for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

gba/dhk

To

1.The Commissioner of Income Tax - LTU
Chennai

2.The Income Tax Appellate Tribunal,
C Bench, Chennai.

3.The Assistant Commissioner of Income-tax
Company Circle III(2), Chennai

4.The CIT (Appeals)-III, Chennai.

+1cc to Mr.T.Ravikumar, Advocate SR.No.15115

+1cc to Mr.Subbaraya Aiyar Padmanabhan, Advocate SR.No.15117

TCA No. 287 of 2011

PA(CO)
GMY(05/04/2022)