IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2022

CORAM :

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

TCA.No.438 of 2012

The Commissioner of Income Tax,
Chennai 600 034. ... Appellant

Vs

M/s. Tamilnadu Cricket Association,
M.A.Chidambaram Stadium,
Victoria Hostel Road,
Chennai 600 005. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, "B" Bench, Chennai, dated 10.04.2012 in I.TA.No.1851/Mds/2011 as against the order of the Commissioner of Income Tax (Appeals)-XI, 121, Mahatma Gandhi Road, Nungambakkam, Chennai-34 made in ITA.No.129/2009-2010 dated 18.08.2021 as against the order of the Deputy Director of Income Tax (Exemption)-1, Chennai-34 in PAN/GIR.No.1611-T dated 15.12.2009 for the Assessment year 2006-2007.

For Appellant : Mr.J.Narayanaswamy
Senior Standing Counsel

For Respondent : Mr.C.Seethapathy

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 10.04.2012 passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, in I.T.A.No.1851/Mds/2011, relating to the assessment year 2007-2008.

2. By order dated 19.12.2012, 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 Tribunal was right in holding that, the assessee is entitled to claim depreciation on the assets, in the form of application of income, even though the cost of purchase of asset was treated as application of income under section 11?"

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the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial question of law for determination in an appropriate case.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-IX)

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Sub Assistant Registrar

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To

1. The Income Tax Appellate Tribunal,
"B" Bench, Chennai,

2. The Commissioner of Income Tax,
Chennai 600 034.

3. The Deputy Director of Income Tax (Exemptions),
Chennai - 600 034.

4. The Commissioner of Income Tax (Appeals),
Chennai.

TCA.No.438 of 2012

SPD(CO)
SB(06/04/2022)