IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.364 of 2017

Principal Commissioner of Income Tax
No.63, Race Course Road, Coimbatore. .... Appellant

Vs.

Dollar Apparels
No.13 sixty Feet Road
Kumaranandapuram
Tirupur .
PAN AAB FD 8592 K. .... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'A' Bench Chennai, dated 23.11.2016 in ITA.No.104/Mds/2016.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

J U D G M E N T
(Delivered by R.SURESH KUMAR, J.)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Chennai by raising the following substantial questions of law:

1. *Whether on the facts and in the circumstances of the case, the appellate Tribunal is justified in law in remitting the case to file of the assessing officer to consider the deduction u/s.80IA of the Income Tax Act in respect of income from windmill division subject to the provisions of Section 80AB, when the very same Tribunal vide order in ITA No.2040/Mds/2016 dated 21.10.2016 in assessee's own case on a similar issue for the subsequent assessment year 2013-14 allowed the appeal in favour of the Revenue?*

2. *Whether on the facts and circumstances of the case, the Tribunal is justified in law in remitting the case to file of the AO to consider the deduction u/s.80IA of the Act in respect of income from windmill division subject to the provisions of the Section 80AB, when it is clear from the revised computation filed by the assessee that the business income of the assessee is 'nil' and hence deduction u/s.80IA of the Act arises?"*

2. It is brought to our notice by the learned Standing Counsel for the appellant Revenue that in the instant case, as per the CBDT's Circular No.9 of 2024 dated 17.09.2024 the tax effect is said to be less than the monetary limit imposed and therefore, the appeal can be disposed of, keeping the substantial questions of law raised in this appeal open for adjudication at a later point of

time.

3. Recording the aforesaid submission made by the learned Standing Counsel for the appellant Revenue, this Tax Case Appeal is dismissed for low tax effect, keeping open the substantial questions of law for adjudication at appropriate stage. No costs.

(R.S.K.,J.) (C.S.N.,J.)
23.10.2024

NCS : Yes/No
KST

To

The Income Tax Appellate Tribunal
'A' Bench, Chennai.

R.SURESH KUMAR, J.

AND
C.SARAVANAN, J.

KST

T.C.A.No.364 of 2017

23.10.2024