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.662 of 2017

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

Vs.

M/s.Kwality Spinning Mills Ltd
Udumalpet Road, Pollachi. .... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench Chennai, dated 29/03/2017 in ITA.No.1837/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 the ITAT was right in not considering the provisions of Section 2(47) of the Income Tax Act 1961 according to which, once the assessee admits of having received the entire consideration and handed over the property documents in the Financial Year 2008-09 itself, the doctrine as per Section 53A of the Transfer of Property Act comes into play and it is a deemed transfer and capital gains is assessable that year itself?*

2. *Whether the ITAT was right in directing the AO to allow Rs.3,00,000/- towards cost of improvement on an estimate basis, when the assessee has not substituted any evidence in support of its claim?*

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
'B' Bench, Chennai.

R.SURESH KUMAR, J.

AND
C.SARAVANAN, J.

KST

T.C.A.No.662 of 2017

23.10.2024