

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"A" BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री चंद्र पूजारी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1635/Mds/2015

निर्धारण वर्ष / Assessment Year : 2012-13

The Deputy Commissioner of  
Income Tax,  
Corporate Circle – 2,  
63-A, Race Course Road,  
Coimbatore.

v. M/s Sri Ranganathar Industries  
Pvt. Ltd.,  
12/45, Thadagam Road,  
Edayarpalayam Post,  
Coimbatore – 641 025.

(अपीलार्थी/Appellant)

PAN : AADCS 0183 Q

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh. P. Radhakrishnan, JCIT

प्रत्यर्थी की ओर से/Respondent by : Sh. S. Sridhar, Advocate

आयकर अपील सं./ITA No.1636/Mds/2015

निर्धारण वर्ष / Assessment Year : 2012-13

The Income Tax Officer,  
Ward I(2),  
Tirupur.

v. M/s Gangai Garments,  
No. 217/1, Gangai Gardens,  
Kavilipalayam Road,  
Sirupoluvapatti Post,  
Tirupur – 641 603.

(अपीलार्थी/Appellant)

PAN : AABFG 9171 H

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh. P. Radhakrishnan, JCIT

प्रत्यर्थी की ओर से/Respondent by : Sh. N. Vijay Kumar, CA

सुनवाई की तारीख/Date of Hearing : 03.09.2015

घोषणा की तारीख/Date of Pronouncement : 11.09.2015

**आदेश / O R D E R**

**PER N.R.S. GANESAN, JUDICIAL MEMBER:**

Both the appeals filed by the Revenue in respect of two different assessees are directed against the respective orders of the Commissioners of Income Tax (Appeals) - I & 3, Coimbatore, dated 29.05.2015 and pertain to assessment year 2012-13. Since common issue arises for consideration in both the appeals, we heard the appeals together and disposing of the same by this common order.

2. We heard Shri Sh. P. Radhakrishnan, the Ld. Departmental Representative and the Ld.counsel and Ld. representative for both the assessees. The only issue arises for consideration is with regard to deduction claimed by the assessees under Section 80-IA of the Income-tax Act, 1961 (in short 'the Act') in respect of windmills. The Assessing Officer rejected the claim of the assessees on the ground that the Department has filed a Special Leave Petition against the judgment of Madras High Court in Velayudhaswamy Spinning Mills (P) Ltd. v. ACIT (231 CTR 368). However, the CIT(Appeals) by following the judgment of Madras High Court allowed the claim of the assessees.

3. Now the only contention of the Department before this Tribunal is that the Revenue has not accepted the judgment of Madras High Court and an appeal has already been filed along with Special Leave Petition and the same is pending before the Apex Court. This Tribunal is of the considered opinion that mere pendency of Special Leave Petition before the Apex Court cannot be a reason to take a different view. The judgment of Madras High Court is binding on all the authorities in the State of Tamil Nadu and Union Territory of Pondicherry. Therefore, the CIT(Appeals) has rightly allowed the claim of the assessee by following the binding judgment of Madras High Court in Velayudhaswamy Spinning Mills (P) Ltd. (supra). Therefore, this Tribunal do not find any infirmity in the order of the CIT(Appeals).

4. In the result, both the appeals of the Revenue stand dismissed.

Order pronounced on 11<sup>th</sup> September, 2015 at Chennai.

sd/-

(चंद्र पूजारी)

(Chandra Poojari)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 11<sup>th</sup> September, 2015.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.