

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" 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.1376/Mds/2015

निर्धारण वर्ष / Assessment Year : 2009-10

The Deputy Commissioner
of Income Tax,
Corporate Circle – 1,
63-A, Race Course Road,
Coimbatore.

(अपीलार्थी/Appellant)

v. M/s Indo Shell Cast Pvt. Ltd.,
No.A-14, SIDCO Industrial
Estate, Kurichi,
Coimbatore – 641 021.

PAN : AAACI 4299 N

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri A.V. Sreekanth, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri G. Baskar, Advocate

सुनवाई की तारीख/Date of Hearing : 05.08.2015

घोषणा की तारीख/Date of Pronouncement : 21.08.2015

आदेश / O R D E R

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

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals)-1, Coimbatore, dated 09.03.2015 and pertains to assessment year 2009-10. The only

issue arises for consideration is with regard to deduction claimed by the assessee under Section 80-IA of the Income-tax Act, 1961 (in short 'the Act').

2. We heard Shri A.V. Sreekanth, the Ld. Departmental Representative and Shri G. Baskar, the Ld.counsel for the assessee. The assessee claimed deduction under Section 80-IA of the Act in respect of two windmills, on the basis of the judgment of Madras High Court in the case of Velayudhaswamy Spinning Mills (P) Ltd. v. ACIT (2012) 340 ITR 477. However, the Assessing Officer disallowed the claim of the assessee on the ground that a Special Leave Petition was filed before the Apex Court against the judgment of the Madras High Court in Velayudhaswamy Spinning Mills (supra). However, on appeal by the assessee, the CIT(Appeals) allowed the claim of the assessee by following the judgment of the Madras High Court in Velayudhaswamy Spinning Mills (supra). It is not the case of the Revenue that the operation of the judgment of the Madras High Court is stayed by the Apex Court. This Tribunal is of the considered opinion that mere pendency of Special Leave Petition before the Apex Court against the judgment of the Madras High Court in Velayudhaswamy Spinning Mills (supra) is not a ground for not following the binding judgment of

jurisdictional High Court. Therefore, this Tribunal is of the considered opinion that the CIT(Appeals) has rightly allowed the claim of the assessee relying on the judgment of the Madras High Court in Velayudhaswamy Spinning Mills (P) Ltd. (supra). This Tribunal do not find any infirmity in the order of the lower authority and accordingly, the same is confirmed.

3. In the result, the appeal of the Revenue is dismissed.

Order pronounced on 21st August, 2015 at Chennai.

sd/-
(चंद्र पूजारी)
(Chandra Poojari)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 21st August, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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