

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI**

श्री चंद्र पूजारी, लेखा सदस्य एवं श्रीजी. पवन कुमार, न्यायिक सदस्यके समक्ष
**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND SHRI G. PAVAN KUMAR, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A.No. 1908/Mds/2015

निर्धारण वर्ष /Assessment year : 2012-2013

The Deputy Commissioner
of Income Tax,
Corporate Circle -1,
Coimbatore

Vs.

M/s. Premier Spinning &
Weaving Mills Pvt. Ltd
No.1, Nava India Road,
Coimbatore 641 028.

[PAN AABCP 3032D]

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri. A.B. Koli, IRS, JCIT.
: Shri. R. Vijayaraghavan, Advocate

आयकर अपील सं./I.T.A.No. 1909/Mds/2015

निर्धारण वर्ष /Assessment year : 2012-2013

The Deputy Commissioner
of Income Tax,
Corporate Circle -1,
Coimbatore

Vs.

M/s. Brindavan Cotton Mills
Pvt. Ltd
No.119-C, Selvapuram Colony,
Somanur,
Coimbatore 641 668.

[PAN AABCB 8937C]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri. A.B. Koli, IRS, JCIT.
: Shri. Vijaykumar, C.A.

सुनवाई की तारीख/Date of Hearing

: 31-12-2015

घोषणा की तारीख /Date of Pronouncement

: 06-01-2016

आदेश / ORDER**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

These two appeals by Revenue are directed against different orders of Commissioner of Income Tax (Appeals)-1, Coimbatore for the assessment year 2012-2013. Since the issue in these appeals are common in nature, these appeals are clubbed, heard together, and disposed of by this common order for the sake of convenience.

2. 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") in respect of windmills. We consider the facts as narrated in ITA No.1908/Mds/2015 for adjudication.

3. The assessee has installed nine Wind Mills in assessment year 2007-2008. The assessee has opted the initial assessment year as 2012-2013 and it claimed 80IA deduction for this assessment year as first year of deduction for those nine windmills established in assessment year 2007-2008. The depreciation of loss of this wind mill units had already been set off in earlier year assessment years against

the profits generated from other business carried on by the assessee. The Assessing Officer rejected the claim of the assessee 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 vs. ACIT 231 CTR 368*. However, the Commissioner of Income Tax (Appeals) by following the judgment of Madras High Court allowed the claim of the assessee.

4. 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 Commissioner of Income Tax (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 Commissioner of Income Tax (Appeals).

5. In the result, the appeals of the Revenue are dismissed.

Order pronounced on Wednesday, the 6th day of January, 2016, at Chennai.

Sd/-

(जी. पवन कुमार)

(G. PAVAN KUMAR)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(चंद्र पूजारी)

(CHANDRA POOJARI)

लेखा सदस्य /ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated:06.01.2016

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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