

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 सदस्यकेसमक्ष
**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND SHRI G. PAVAN KUMAR, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. Nos. 2308 & 2309/Mds/2015

निर्धारण वर्ष /Assessment year : 2011-12 & 2012-2013

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

Vs. M/s. Rangamma Steels &
Malleables,
603, C-Block,
Avinashi Road,
Coimbatore 641 018.

[PAN AADFR 3050J]

Appellant

अपीलार्थी की ओर से/ Appellant by : Shri. Shri. A.V. Sreekanth, IRS, JCIT.
प्रत्यर्थी की ओर से /Respondent by : None

सुनवाई की तारीख/Date of Hearing : 18-02-2016

घोषणा की तारीख /Date of Pronouncement : 26-02-2016

आदेश / ORDER

PER G. PAVAN KUMAR, JUDICIAL MEMBER:

The appeals filed by the Revenue are against different orders of Commissioner of Income Tax (Appeals)-2, Coimbatore dated 14.09.2015 for the assessment years 2011-12 and 2012-2013 passed

u/s.143(3) and 250 of the Income Tax Act, 1961 (herein after referred to as 'the Act'). 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.2308/Mds/2015 for adjudication.

3. The brief facts of the case are that the assessee company filed return of income for the assessment year 2011-12 on 28.09.2011 disclosing Total income of ₹17,73,150/-. The case was selected for scrutiny and the assessment was completed by disallowing ₹1,50,55,920/-under section 80IA of the Act by notionally bringing in and setting off the brought forward loss for determining the profits qualifying for deduction u/s.80IA from the initial assessment year being the year relevant to the financial year in which operations relating to the windmill infrastructure commenced. Aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals).

4. On appeal, the Commissioner of Income Tax (Appeals) observed that the issue is covered by the jurisdictional High Court order in the case of *CIT vs. Velayuthasamy Spinning Mills 231 CTR 368* and allowed the claim of the assessee. Against Commissioner of Income Tax (Appeals) order, the Revenue assailed an appeal before Tribunal.

5. At the time of hearing, none appeared on behalf of the assessee and heard the submissions of Id. Departmental Representative. The only contention of the Department before the Tribunal 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). The appeal of the Revenue in ITA No.2308/Mds/2015 is dismissed.

6. Consequently, the appeal of the Revenue in ITA No.2309/Mds/2015 is also dismissed.

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

Order pronounced on Friday, the 26th day of February 2016, at Chennai.

Sd/-

(चंद्र पूजारी)

(CHANDRA POOJARI)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(जी. पवन कुमार)

(G. PAVAN KUMAR)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai

दिनांक/Dated:26.02.2016

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 |