

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7593 OF 2009

(Arising out of S.L.P. (C) No.3854 of 2008)

Commissioner of Income Tax, Salem

...Appellant(s)

Versus

M/s. Sugavaneeshwara Spg. Mills Ltd.

...Respondent(s)

O R D E R

Heard learned counsel on both sides.

Delay condoned.

Leave granted.

By consent, the matter is taken up for final hearing.

The narrow controversy is - whether, on facts and circumstances of this case, the respondent [assessee herein] was not entitled to deduction in view of the law laid down in the judgement of the Division Bench of this Court in the case of Commissioner of Income Tax vs. Sri Mangayarkarasi Mills Private Limited, reported in [2009] 315 I.T.R. 114?

According to the learned counsel appearing on behalf of the assessee, the judgement of this Court in the case of Sri Mangayarkarasi Mills Private Limited [supra]

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does not lay down the law across the board and that the said judgement has to be seen in the facts of each case. We express no opinion on the said submission. Accordingly, we remit this matter to the High Court for de novo consideration in the light of the judgement in the case of Sri Mangayarkarasi Mills Private Limited [supra], which has been delivered only on 21st July, 2009. The High Court would also consider the tests laid down by this Court in the cases of Commissioner of Income Tax vs. Saravana Spinning Mills Private Limited reported in [2007] 293 I.T.R. 201, and Commissioner of Income Tax vs. Ramaraju Surgical Cotton Mills, reported in [2007] 294 I.T.R. 328, while disposing of this case on merits. We express no opinion on merits.

Subject to what is stated herein, the appeal is allowed with no order as to costs.

.....J.
[S.H. KAPADIA]

.....J.
[DR. B.S. CHAUHAN]

New Delhi,
November 16, 2009.