

**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 के समक्ष।**  
[BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER]

आयकर अपील सं./I.T.A.No.323/Mds/2015  
निर्धारण वर्ष /Assessment year : 2011-12

The Dy. Commissioner of  
Income-tax  
Corporate Circle-1  
Coimbatore

**(अपीलार्थी/Appellant)**

**Vs.** M/s Roots Multiclean Ltd  
RKG Industrial Estate  
Ganapathy  
Coimbatore 641 006  
**[PAN AABCR 0315 F]**  
**(प्रत्यर्थी/Respondent)**

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

सुनवाई की तारीख/Date of Hearing : 04-08-2015  
घोषणा की तारीख /Date of Pronouncement : 07-08-2015

**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 25.11.2014 and pertains to assessment year 2011-12

2. Notice of hearing was served on the assessee by RPAD. The Registry has placed on record the postal acknowledgement as a proof of service of notice on the assessee. Even though the assessee

received the notice of hearing, no one appeared for the assessee when the appeal was taken up for hearing. Therefore, we heard Shri A.V. Sreekanth, Ld. Departmental Representative and proceeded to dispose of the appeal on merit.

**3.** The Assessing Officer disallowed the claim of depreciation on the windmill on the ground that the Revenue has filed an appeal before the Apex Court against the judgment of the Madras High Court in Velayudhaswamy Spinning Mills Ltd. vs ACIT, 231 CTR 368. The Assessing Officer admits in the assessment order that the issue before him is similar to one that was decided by the Madras High Court. Nevertheless, merely because a Special Leave Petition was pending before the Apex Court, he disallowed the claim of the assessee. However, on appeal by the assessee, by following the judgment of the Madras High Court in Velayudhaswamy Spinning Mills Ltd. (supra), the CIT(A) allowed the claim of the assessee.

**4.** Having heard the Id. DR, we do not find any infirmity in the order of the lower authority in following the binding judgment of the Jurisdictional High Court. A mere pendency of SLP before the Apex Court cannot be a reason for not following the judgment of the Jurisdictional High Court. It is not the case of the Revenue that the operation of the judgment of the Madras High Court was stayed by the

Apex Court. In those circumstances, this Tribunal do not find any infirmity in the order of the lower authority. Accordingly, the same is confirmed.

5. In the result, the appeal of the Revenue stands dismissed.

Order pronounced in the open court on 07<sup>th</sup> of 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: 07<sup>th</sup> August, 2015

RD

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