IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.07.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

T.C.A. NO. 549 OF 2015

The Commissioner of Income Tax
Chennai. ...Appellant

- Vs -

Dr. Agarwal's Eye Hospital
19, Cathedral Road
Gopalapuram, Chennai 600 086. ...Respondent

Appeal filed under Section 260-A of the Income Tax Act against the order dated 12.05.2014 passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, made in ITA No.1178/Mds/2013 and appeal against the order of the Commissioner of Income Tax (Appeals)-IV, 121, M.G.Road, Chennai -34, made in ITA No.355/11-12/A-III dated 08.02.2013 and appear against the Assessment order u/s 143 (3) for the assessment year 2009-10 of the Assistant Commissioner of Income Tax Company Circle I (4), Chennai, in PA/GIR No.AACD2373G dated 22.12.2011.

For Appellant : Ms. Vardhini Karthik for
M/s. T.Ravikumar

JUDGMENT
(DELIVERED BY R.SUDHAKAR, J.)

Aggrieved by the order of the Tribunal in dismissing the appeal filed by it, the appellant/Department is before this Court by filing the present appeal raising the following questions of law :-

> "i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in upholding the order of the CIT (A), who disallowed expenses of Rs.40,17,382/= on account of interior decoration by holding that it was Revenue expenditure and not capital?

ii) Is not the finding of the Tribunal bad especially when on the analysis of the break up of the bills and expenditure incurred indicates various civil work done, painting, tile laying, plumbing works, pest control and water proofing which are all of mostly in the nature of capital expenditure?"

2. The facts, in a nutshell, are as under :-

The assessee is engaged in the business of running of eye hospitals. The assessee filed return of income for the assessment year 2009-2010, admitting total income of Rs.58,58,471/=. The assessee, while claimed the expenses incurred towards interior decoration as Revenue expenditure, however, the Assessing Officer treated the same as capital expenditure, against which the assessee preferred appeal to the CIT (Appeals), which was allowed in favour of the assessee. Against the same, the Department preferred appeal to the Tribunal, which was dismissed against which the present appeal is filed.

3. When the matter was taken up, learned counsel appearing for the appellant/Revenue fairly submitted before this Court that the issue raised in this appeal is squarely covered by the judgment of this Court in the assessee's own case in Commissioner of Income Tax, Chennai - Vs - Dr. Agarwal's Eye Hospital Limited (TCA No.562 of 2013 dated 24.9.2013), wherein this Court held that the assessee, being an eye hospital, needs to have better ambience and for the comfortable stay of the patients, who visit the hospital and, therefore, incurring of the expenditure towards the betterment of the premises merits consideration as business expenditure. Accordingly, the issue was held in favour of the assessee and against the Revenue.

4. This Court is in agreement with the above proposition of law laid down in the abovesaid decision and, therefore, this appeal is liable to be dismissed. Accordingly, this appeal, filed by the appellant/Revenue fails and the same is dismissed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Income Tax Appellate Tribunal
Madras 'C' Bench
Chennai.

2. The Commissioner of Income Tax (Appeals)- III,
121, M.G.Road, Chennai - 34.

3. The Assistant Commissioner of Income Tax,
Company Circle (4), Chennai.

1 CC to T.Ravikumar , Advocate SR.No. 38294

1 CC to V.S.Jayakumar, Advocate SR.No. 38372

TCA No.549 of 2015

KJI (CO)
PSI (11.08.2015)