IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.3.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8542 of 2015

and MP.No.1 of 2015

M.Guruprakash Hotels
Represented by its Partner
Mr.R.Mahamandra Ruban
Having Office at
No.71a, Usman Road
T.Nagar, Chennai -600 017 ...Petitioner

Vs.

The Assistant Commissioner of Income Tax
Circle I, Room No.309, 3rd Floor,
New Block, 121, M.G.Road, Aayakar Bhavan
Chennai -600 034 ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the records of impugned order issued by the Respondent in its proceedings vide PAN: AAAFG3082G/2011-12 dated 20.03.2015 dismissing the objections of the Petitioner to the re-opening of its income tax assessment for the assessment year 2011-12 under Section 147 of the Income Tax Act 1961 quash the same and consequently forbearing the Respondent or any of its subordinates agents or any other person claiming under the Respondent from re-assessing the Petitioner's income tax for the assessment year 2011-12 under Section 147 of the Income Tax Act 1961.

For Petitioner :Mrs. Suhrith Parthasarathy

For Respondents :Mr.Pramod Kumar Chopda

O R D E R

When the matter is taken up for hearing, Mr.Promod Kumar Chopda, learned standing counsel appearing for the respondent, has produced the letter dated 27.3.2014 in NCC-1/AAAFG3082G/AY2011-12 of the respondent, wherein, in paragraph 4, it is stated as follows:-

> Meanwhile, it is noticed that jurisdictional High Court decision in the case of CIT vs.Dr.D.L.Ramachandra Rao (1999) 236 ITR 51 (Mad)

has held that there is no need to assess the long term capital gains as short capital gains on land though the land and building are sold as a single unit. In view of the above in case if the assessee produces the evidence that the sale consideration relates to land and building and on the land no deprecation was claimed and allowed, the capital gain arising out of sale value of land will be treated as long term capital gain only. However, the capital gain arising out of sale value of the building will be treated as short term capital gain."

2. Recording the aforesaid statement of the respondent, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

The petitioner shall participate in the proceedings and it is also open to the respondent to pass appropriate orders in accordance with law.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

The Assistant Commissioner of Income Tax
Circle I, Room No.309, 3rd Floor,
New Block, 121, M.G.Road, Aayakar Bhavan
Chennai -600 034

1 cc to Mr. Suhrith Parthasarathy, Advocate, Sr. 17822
1 cc to Mr.T. Pramodkumar Chopda, Standing Counsel for Income Tax Department, Sr. 17776

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