In the High Court of Judicature at Madras

Dated : 13.12.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice K.RAVICHANDRABAABU

Tax Case Appeal No.621 of 2017

The Principal Commissioner of
Income Tax-1, Coimbatore. ...Appellant/Appellant

Vs

M/s.Sakthi Sugars Ltd.,
Coimbatore-18. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 13.1.2017 made in ITA.No.478/Mds/2015 on the file of the Income Tax Appellate Tribunal, Madras 'D' Bench for the assessment year 2009-10 against Appellant office of the Commissioioner of Income Tax (Appeals)-1, Coimbatore dated 30/12/2014 and made in Appeal.No.366/11-12 and

against the Assistant Commissioner of Income-Tax Company Circle-1(i) Coimbatore dated 30/12/2011 PA.No./GIR.No.AADCS06518.

For Appellant : Mr.T.R.Senthil Kumar, SSC
For Respondent : Mr.R.Venkatanarayanan for
M/s.Subbaraya Aiyar Padmanabhan

Judgment was delivered by T.S.SIVAGNANAM,J

Mr.R.Venkatanarayanan, learned counsel accepts notice on behalf of the respondent. Heard both.

2. This appeal has been filed by the Revenue raising the following substantial questions of law :

> "i. Whether the Appellate Tribunal is right in allowing the rental income of the assessee as 'business income' instead of 'income from house property' when the principal object of the assessee company is not letting out of properties ? and

ii. Whether the Appellate Tribunal is right in allowing the rental income of the assessee as 'business income' ignoring the Apex Court's judgment in the case of Keyaram Hotels [(2015 63 Taxmann.com 301] ?"

3. The appeal filed by the Revenue was dismissed by the Tribunal by following the earlier order of the Tribunal in I.T.A.No.614/Mds/2012 dated 30.1.2015 in the assessee's own case for the assessment year 2008-09.

4. When this matter came up for hearing on 08.12.2017, we posed a question to the learned Senior Standing Counsel for the Revenue as to whether the Department accepted the earlier decision of the Tribunal in the assessee's own case for the assessment year 2008-09. The learned Senior Standing Counsel sought for an adjournment to verify the facts. Today, when the case is taken up for hearing, it is reported that the Department accepted the earlier order of the Tribunal in the assessee's own case for the assessment year 2008-09 and that no appeal has been filed against that order. Thus, we find that the substantial questions of law have to be answered in favour of the assessee and against the Revenue.

5. In the light of the earlier decision of the Tribunal dated 30.1.2015 in the assessee's own case for the assessment year 2008-09, which has attained finality, the above tax case appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

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To
1.The Income Tax Appellate Tribunal, Madras 'D' Bench.

2.The Commissioner of Income Tax
(Appeals-1)
Coimbatore

3. The Assistant Commissioner
of Income Tax Company Circle-1(i)Coimbatore

+1 cc to M/s.T.R.Senthil kumar Advocate sr 88581
+1 cc to M/s.Subbaraya Aiyar Padmanabhan Advocate sr 29793

TCA.No.621 of 2017

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aa26/02/2018