IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2018

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Tax Case (Appeal) Nos.1513 and 1514 of 2008

Commissioner of Income Tax,
Chennai. ... Appellant
in both the Appeals

-vs-

M/s.New Ambadi Estate Pvt. Ltd.,
Parry House, V Floor,
No.43, Moore St.,
Chennai-600 001. ... Respondent
in both the Appeals

Tax Case (Appeals) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income-tax Appellate Tribunal 'B' Bench, Chennai, dated 25.01.2008 in I.T.A.No.436/Mds/2007 and C.O.No.35/Mds/07 in I.T.A.No.436/Mds/2007 for the assessment year 1999-2000.

For Appellant : Mr.Karthik Ranganathan,
(in both the Appeals) Standing Counsel

For Respondent : Mr.M.P.Senthil Kumar
(in both the Appeals)

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COMMON JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

These appeals, by the appellant/Revenue, are directed against the order of the Income-tax Appellate Tribunal 'B' Bench, Chennai, dated 25.01.2008 in I.T.A.No.436/Mds/2007 and C.O.No.35/Mds/07 in I.T.A.No.436/Mds/2007 for the assessment year 1999-2000.

2.Heard Mr.Karthik Ranganathan, learned Standing Counsel for the appellant and Mr.M.P.Senthil Kumar, learned counsel for the respondent.

3.The above appeals have been admitted, on 24.09.2008, on the following substantial questions of law:-

> "(i) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessment u/s 147 r/w 143 of the Income Tax Act was not justified in view of the proviso to Section 14A of the Act, even though there had been no regular assessment prior to that?
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> (ii) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the re-opening to disallow expenditure on exempted income as per Sec.14A was bad in law even though no regular assessment had been

made in these cases, and the 147 assessment was the assessment for the first time?

(iii) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the proviso to Sec.14A would apply even where no regular assessment was made, and no refund granted or liability created by any earlier order?

(iv) Whether the assessee is entitled to deduction in respect of interest on borrowal's utilized for the purpose of investment in shares, when the dividend there from would be exempt?

4.We have perused the order of assessment as well as the Order passed by the Commissioner of Income Tax (Appeals)-XII and we find that the tax effect in these appeals is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue these appeals in view of the low tax effect. Hence, the appeals are dismissed and the substantial questions of law, framed for consideration, are left open. The Revenue is at liberty to seek for restoration of appeals if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular. No costs.

(T.S.S., J.) (N.S.K., J.)

14.11.2018

abr

To

The Income-tax Appellate Tribunal 'B' Bench, Chennai.

T.S.Sivagnanam, J.
and
N.Sathish Kumar, J.

(abr)

T.C.(A) Nos.1513 and 1514 of 2008

14.11.2018