IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2018

CORAM :

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

Tax Case Appeal Nos. 250 & 251 of 2011

Commissioner of Income Tax-I,
Chennai.

...Appellant
in both the appeals

-vs-

M/s.Vira Properties(Madras) Pvt.Ltd.
New No.158, Old No.,781 Anna Salai
Chennai-600 002.

...Respondent in
both the appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal Chennai 'D' Bench, dated 23.08.2010 in ITA No.895 & 896/Mds/2010, for the Assessment year 2003-04 & 2004-05 respectively against the order of the Commissioner of Income Tax Appellate Tribunal 'D' bench , Chennai. Dated 23.08.2010 in ITA.NO.S 895&896 /MADRAS 2010 for the Assessment year 2003-04 &2004-2005 PAN AABCV5241G the Deputy Commissioner of Income Tax Company Circle III (4), Chennai. Dated 19.03.2010 in ITA.NO.675&676/09 10/A-III madras 2010 for the Assessment year 2004-2005 PAN AABCV5241Q Respectively.

For Appellant : Mrs.V.Pushpa
(in both the appeals)

For Respondent : Mr.R.Venkata Narayanan
for M/s.Subbaraya Aiyar
Padmanabhan & Ramamani
(in both the appeals)

JUDGMENT

[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

These Tax Case Appeals are filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal Chennai 'D' Bench, dated 23.08.2010 in ITA No.895 & 896/Mds/2010, for the Assessment year 2003-04 & 2004-05 respectively.

2.Heard Ms.V.Pushpa, learned Counsel for the Revenue and Mr.R.Venkatanarayanan, learned Counsel for the assessee.

3.These Appeals have been admitted on 02.08.2011, on the following Substantial Question of Law:

> "Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the income from letting out commercial property was assessable as income from business on the ground that the income from sale of property in the same building complex had been assessed as business income?”

4.We have perused the orders of Assessment as well as the Common Order passed by the Commissioner of Income Tax and we find that the tax effect in these appeals are 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 Question of Law, framed for consideration, is left open. No costs.

The Revenue is at liberty to seek for restoration of the appeals, if at a later point of time, it is found that the tax effect is above the threshold limit.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ska/mrm

To
Income Tax Appellate Tribunal Chennai 'D' Bench

2.The Commissioner of Income Tax -I, Chennai.

+1cc to Mr.M.Swaminathan , Advocate SR.No. 85976
+1cc to M/s.Subbaraya Aiyar , Advocate SR.No. 25606

T.C.A.Nos.250 & 251 of 2011

A.SK(11/02/2019)