IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.386 of 2018
and C.M.P.No.8505 of 2018

Principal Commissioner of Income Tax I,
No.63, Race Course Road,
Coimbatore. ... Appellant/Appellant

-vs-

M/s.Sakthi Sugers Ltd.,
180, Course Road,
Coimbatore-641 018.
PAN : AAD CS 0651 B. ... Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'C' Bench, Chennai dated 23.06.2017 in ITA No.1107/Mds/2016 for the assessment year 2010-11. against the order of the commissioner of Income (Appeals)-I, Coimbatore, dated 14/01/16 made in Appeal No. 276/13-14 and against the order of the Deputy Commissioner of Income Tax, Company Circle I (1), Coimbatore, dated 30/03/2013 made in PA.GIR.No. AADCS0651B for Assessment year 2010-11.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel
: assisted by M/s.K.G.Usha Rani,
Junior Standing Counsel

For Respondent : Mr.R.Venkata Narayanan,
for M/s.Subbaraya Aiyar &
Padmanaban

JUDGMENT
[Delivered by T.S.Sivagnanam, J.]

Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by M/s.K.G.Usha Rani, learned Junior Standing Counsel for the appellant/Revenue; and Mr.R.Venkata Narayanan, learned counsel for the respondent/assessee.

2.This tax case appeal, by the Revenue, is directed against the order passed by the Income Tax Appellate Tribunal 'C' Bench, Chennai dated 23.06.2017, in ITA No.1107/Mds/2016 for the assessment year 2010-11.

3.The above appeal has been filed raising the following two substantial questions of law:-

> "1.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?
>
> 2.Whether the Appellate Tribunal is right in allowing the rental income of the assessee as "business income" ignoring Apex Court judgment in the case of Keyaram Hotels (2015) 63 taxmann.com 301?"

4.It is not disputed before us that the issue raised in this appeal is squarely covered by the judgment of this Court in the case of The Principal Commissioner of Income Tax-1, Coimbatore vs. M/s.Sakthi Sugars Ltd. [Tax Case Appal No.621 of 2017; Dated 13.12.2017], where identical questions were considered and the appeal filed by the Revenue was dismissed. The judgment dated 13.12.2017, reads as follows:-

> "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.”

5.Following the above decision, the order of the Tribunal, dated 23.06.2017, is confirmed and the appeal filed by the Revenue stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

abr

To
1.The Principal Commissioner of Income Tax I,
No.63, Race Course Road,
Coimbatore.

2.The Income Tax Appellate Tribunal 'C' Bench, Chennai.

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

+1cc to Mr.T.R.Senthil Kumar, Senior Counsel for (I.T)
SR.No.53835
+1cc to Mr.Subbaraya Aiyar, Advocate SR.No.53838

Tax Case Appeal No.386 of 2018

CA(CO)
GN(21/08/2018)