IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

CORAM :

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

Tax Case Appeal No.487 of 2018

The Commissioner of Income tax,
Chennai. ... Appellant

-vs-

Mr.N.Raghunath,
New No.19, Old No.9,
Judge Jambulingam Street,
Mylapore, Chennai-600 004.
PANO:ACCPR4059E. ... 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 01.05.2017 in ITA No.12/Mds/2017 for the assessment year 2013-14 against the office of the Commissioner of Income Tax (Appeal)-2, Chenna-600 034 dated 12.04.2017 and 31.10.2016 in I.T.A.No.234/ CIT(A)-2/2015-16 against the PAN.No./GIR.No.ACCPR4059E dated 29.02.2016 for the Assessment year 2013-14.

For Appellant : Mrs.R.Hemalatha,
Standing Counsel &
: Mr.T.Ravikumar,
Senior Standing Counsel

For Respondent : Mr.R.Kumar

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

Heard Mrs.R.Hemalatha, learned Standing Counsel and Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant / Revenue; and Mr.R.Kumar, learned counsel for the respondent / assessee.

2.The above appeal has been filed by the Revenue challenging the order passed by the Income Tax Appellate Tribunal 'C' Bench, Chennai, dated 01.05.2017 in ITA No.12/Mds./2017 for the assessment year 2013-14.

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

> "1.Whether the Tribunal was right in holding that even if large sums of money incurred towards interior decoration which gave rise to enduring benefit to the assessee are revenue expenditure and not capital expenditure?
>
> 2.Is not the finding of the Tribunal bad since the assessee in its books of accounts maintained had claimed only 10% depreciation but however, for the purpose of income-tax had claimed 100% depreciation on temporary partition adopting differential treatment which is contrary to the judgment of the Apex Court in the case of Mangayarkarasi Mills reported in 315 ITR page 114?
>
> 3.Should not the Tribunal apply the decision of the Apex Court in the case of CIT Vs Mangayarkarasi Mills reported in 315 ITR page 114 especially when huge expenditure were incurred by the Assessee on leased premises which has resulted in enduring benefit to the assessee and therefore is to be treated as capital expenditure?"

4.Before we go into the merits of the matter, first we propose to consider as to whether the Revenue can pursue the matter in the light of the various Circulars issued by the Central Board of Direct Taxes (CBDT) prescribing the threshold limits for filing appeals and pursuing pending appeals. In the case of Commissioner of Income Tax vs. N.Meenakshisundaram [Tax Case (Appeal) Nos.868 and 869 of 2008; Dated 23.04.2018], this Court had an occasion to consider various circulars issued by the CBDT as regards the threshold limits fixed for filing the appeals by the Revenue or pursue the appeals, which are pending from 2008 onwards.

5.The learned Standing Counsel for the Revenue has produced a Circular issued by the Income Tax Officer (OSD), Office of the Principal Commissioner of Income Tax, dated 14.09.2017, in which, the tax effect for the instant case has been mentioned as Rs.37.76 lakhs, which is well below the threshold limit.

6.Hence, following the said Circular, this tax case appeal is dismissed and the substantial question of law raised in this appeal is left open. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Commissioner of Income tax,
   Chennai.

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

3. The Commissioner of Income-tax (Appeals)-2,
   Chennai.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No.49722

T.C.A.No.487 of 2018

RK(CO)
CS/30/08/18