In the High Court of Judicature at Madras

Dated : 06.8.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.499 of 2018

Commissioner of Income Tax,
Chennai ...Appellant/Respondent

Vs

Rukmani Santhanam ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 22.7.2016 in ITA No.597/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2006-07. against the order dated 28.01.2015 in I.T.A.No. 615/13-14/A-15 passed by the commissioner of Income Tax (Appeals) -15, Chennai against the order dated 21.03.2013 in PAN/GIR.No. AFEPR 1156 H order passed by the Income Tax Officer, Ward IV (4), Chennai 600 034 for the Assessment year 2006 - 2007.

For Appellant : Mr.T.R.Senthilkumar

Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned counsel for the appellant.

2. The Revenue has preferred this appeal challenging the order dated 22.7.2016 passed by the Income Tax Appellate Tribunal in ITA.No.597/Mds/ 2015 for the assessment year 2006-07.

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

> "1. Whether, on the facts and in the circumstances of the case and in law, the Tribunal was right and justified in holding that the assessee is eligible for deduction under Section 54 when the asset transferred by the assessee is only an undivided share in vacant land and not a residential house as stipulated in Section 54 and whether such

order of the Tribunal is contrary to facts and provisions of law is perverse ?

2. Whether on the facts and circumstances of the case and in law, the Tribunal erred in not considering the ratio laid down in CIT & Anr. Vs. Ved Prakash Rakhara (Kar.) 82 ITR 234 on the same issue ?

3. Whether on the facts and circumstances of the case and in law, the Tribunal was correct and justified in allowing the claim of deduction under Section 54F even though the assessee transferred the new asset within the three year period and thus violated the provisions contained in Section 54F ?

4. Whether on the facts and circumstances of the case and in law, the Tribunal was right and justified in holding that settlement of property to son and daughter cannot be treated as transfer when Section 2(47) of the Income Tax Act includes relinquishment of the asset or extinguishment of any right in asset amounts to transfer ? And

5. Whether on the facts and circumstances of the case and in law, the Tribunal was right and justified in holding that the assessee is entitled for deduction under Section 54F when more than one flat was acquired by the assessee ?"

4. It may not be necessary for us to answer the above substantial question of law as framed by the Revenue, as the monetary limit in this appeal is lesser than the amount fixed by the circular instructions issued by the Central Board of Direct Taxes. This Court had an occasion to consider the effect of those circulars in TCA.No.395 of 2018 dated 24.7.2018, the relevant portions of which are as follows :

"4. Further, it is relevant to note that by Circular No.3/2018, dated 11.7.2018, monetary limit has further been increased and appeals be maintainable before the High Courts. It has been increased to Rs.50,00,000/-. Hence, viewed from any angle, this appeal could not have been filed.

5. Thus, by applying the above Circular issued by the CBDT, this appeal ought not to have been filed by the Revenue and hence, for that reason, this tax case appeal is

dismissed and the substantial questions of law, framed for consideration, are left open."

5. In the light of the above, the above appeal is dismissed. The substantial questions of law are left open for consideration.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

To

1.The Registrar,
Income Tax Appellate Tribunal,
Chennai 'C' Bench.

2. The Commissioner of Income Tax,
Chennai.

3. The Income Tax Officer,
Ward IV (4),
Chennai 600 034.

+1cc to Mr.T.R.Senthil Kumar, Advocate SR.No.54239

TCA.No.499 of 2018

NMI(CO)
GN(31/08/2018)