IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2018

CORAM

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

Tax Case (Appeal) No.1398 of 2007

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

-vs-

Dharani Finance Ltd.,
57, Sterling Road,
Nungambakkam,
Chennai. ... Respondent/Appellant

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income-tax Appellate Tribunal Madras "A" Bench, Chennai dated 27.04.2007 in ITA No.1554/Mds/2005 for the assessment year 1998-99, against the order of the Commissioner of Income Tax(A)III, chennai-34, made in Ita.432, 433 & 434/2004-05/A.III, dated 03/05/2005 and against the order of the Assistant Commissioner of Income Tax, Company Circle I(4)(i/c) Chennai, made in GI.No./PA.No.AAACD 1282G dated 30/11/04 for Assessment year 1998/99.

For Appellant : Mrs.R.Hemalatha
Senior Standing Counsel

For Respondent : Mr.N.Devanathan

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JUDGMENT

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

Heard Mrs.R.Hemalatha, learned Senior Standing Counsel for the appellant, and Mr.N.Devanathan, learned counsel for the respondent.

2.This appeal has been admitted on the following substantial questions of law:-

> "(i) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the assessee is entitled to depreciation on the assets involved in a sale and lease back transaction, when it is merely a financial transaction?
>
> (ii) Whether on the facts and circumstances of the case, the Tribunal was right in relying on the orders pertaining to earlier assessment years, when Explanation 4A to Section 43(1) is applicable from 01.10.1996, and thus applicable to the assessment year in question?"

3.Before we proceed to consider the substantial questions of law raised in this appeal, we have to first take note of the fact that the tax effect in the present appeal relevant for the assessment year 1998-99 is less than the threshold limit. In the case of Commissioner of Income Tax vs. N.Meenakshisundaram [Tax Case (Appeal) Nos.868 and 869 of 2008; Dated 23.04.2018], one of us (TSSJ) had an occasion to consider various circulars issued by the Central Board of Direct Taxes (CBDT) as regards the threshold limits fixed for filing the appeals by the Revenue or pursue the appeals, which are pending from 2008 onwards.

4.Further, it is relevant to note that by Circular No.3/2018, dated 11.07.2018, 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. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

(abr)

To

1.The Commissioner of Income Tax, Chennai.
2.The Income-tax Appellate Tribunal Madras “A” Bench, Chennai.

3.The Asst. Commissioner of Income-tax,
Company Circle I(4) (i/c) Chennai.

+1cc to Mr.T.Ravikumar, Advocate sr.no.58432

T.C.(A) No.1398 of 2007

ca(co)
nr 11/09/2018