IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.08.2018

Coram

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

T.C.(A). No.317 of 2010

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

vs.

M/s.Egberts India Pvt. Ltd.,
F97, Anna Nagar East,
Chennai. .. Respondent/Respondent

Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal "B" Bench, Chennai dated 16.09.2009 passed in I.T. A. 2136/Mds/2008 against the order of the Commissioner of Income Tax(Appeals)II, Chennai dated 23.07.2008 and made in ITR No. 557/2007-2008/A-III and against the order of the Assistant Commissioner of Income Tax Company -II(1), Chennai 34 dated 28.12.2007 and made in PAN/GIR-AAACE 1410F.

For Appellant : Mr.T.Ravikumar
For Respondent : Mr.M.P.Senthilkumar

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

The Revenue has filed this appeal by formulating the following substantial questions of law in respect of the assessment year 2001-2002:

"1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the profit on the sale of the land which is a capital receipt which was not reflected in the P&L statement in violation of Clause 2(b) of Schedule VI, Part I of the Companies Act and credited in the capital reserve, need not be added to the book profits for the purpose of the assessment under Section 115JB?

2.Without prejudice to the preceding question, whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in overlooking the provisions of Clause (b) of Explanation 1 to Section 115JB as per which the Assessing Officer was right in adding back the amount of profit on sale of land carried to capital reserve in arriving at the "book profit"?

2.Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent.

3.When the matter is taken up for hearing, learned counsel appearing for the appellant would submit that the Central Board Direct Taxes by Circular No.3/2018 dated 11.07.2018 revised the monetary limits for filing appeals before the Appellate Tribunal and the High Court and for filing special leave petitions before the Supreme Court. As per the said circular, the monetary limit for filing appeal before the High Court has been increased to Rs.50,00,000/-.

4.In view of the circular issued by the Central Board Direct Taxes in Circular No.3/2018 dated 11.07.2018, this tax case appeal is dismissed on the ground of low tax effect, leaving the substantial questions of law open, which have been framed for consideration. No costs.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

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To
1. The Income Tax Appellate Tribunal,
"B" Bench, Chennai.

2. The Commissioner of Income Tax
Appeals(III) Chennai.

3. The Assistant Commissioner of Income Tax
Company II(1) Chennai 34.

+1 CC to Mr.M.P. Senthil Kumar, Advocate sr 53041

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KK(CO)
SP(31/08/2018)