In the High Court of Judicature at Madras

Dated : 18.9.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.867 of 2010

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

Vs

M/s.Forward Leather Co. ...Respondent/ Respondent
Chennai 03.

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 18.12.2009 in ITA No.1071/Mds/2009 on the file of the Income Tax Appellate Tribunal Madras 'D' Bench for the assessment year 2006-07 against the order of the commissioner of Income Tax (Appeals)VI Chennai dated 22.04.2009 in Appeal No.CIT(a)IV/CHE/131/08-09 against the Additional Commissioner of Income Tax Range X Chennai. -06. dated 29.12.2008 made in PAN/GIR NO.AAAFF1046m Assessment year of 2006-2007.

For Appellant : Mr.J.Naresh Kumar
For Respondent :Mr.Ashok Pathy for
M/s.Pass Associates

Judgment was delivered by T.S.SIVAGNANAM,J

We have heard the learned counsel on either side.

2. The Revenue has preferred this appeal challenging the order dated 18.12.2009 passed by the Income Tax Appellate Tribunal in ITA.No.1071/ Mds/2009 for the assessment year 2006-07.

3. The above appeal has been admitted on 25.10.2010 on the following substantials question of law :

> "i. Whether, on the facts and in the circumstances of the case, the Income Tax Tribunal is right in law in deleting the addition of Rs.16,25,000/-

made on account of diversion of interest bearing funds for investments ?

ii. Whether the Tribunal was right in allowing interest on borrowed funds utilized for the purchase of a Ferrari car for personal use of the partner and for purchase of shares in Conceria Virgina Chennai P. Ltd. ? and

iii. Whether, on the facts and in the circumstances of the case, the Income Tax Tribunal is right in law in deleting the disallowance on guest house amounting to Rs.12,41,397 ?"

4. It may not be necessary for us to answer the above substantial questions of law, as the monetary limit involved 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 that circular 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.
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> 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. No costs. The substantial questions of law are left open for consideration.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To
The Income Tax Appellate Tribunal, Madras 'D' Bench.

2.the commissioner of Income Tax (Appeals)IV Chennai.

3.The Additional commissioner of Income Tax Range X,
Chennai 6

+1cc to Mr. T.RAVI KUMAR, Advocate SR.No. 64740

TCA.No.867 of 2010

A.SK(10/01/2019)