In the High Court of Judicature at Madras
Dated : 20.11.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mr.Justice N.SATHISH KUMAR

Tax Case Appeal Nos.665 of 2017 & 816 to 820 of 2018
& all connected pending CMPs

Principal Commissioner of Income Tax-I, Coimbatore ...Appellant/Respondent in all the TCAs

Vs

M/s.Trident Properties,
C/O Shri.S.Sridhar and Shri A.S.Sriraman,
advocates, Chennai-20 ...Respondent in TCA.665 of 2017

M/s.Trident Properties JV,
Coimbatore-36 ...Respondent in TCAs.816 to 820 of 2018

APPEALS under Section 260A of the Income Tax Act, 1961 against the order dated 09.3.2017 made in ITA.No.3138/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2012-13 as well as the common order dated 15.5.2018 made in ITA.Nos. 1908, 1910, 1999, 1907 and 1911/Chny/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench respectively for the assessment years 2009-10, 2011-12, 2010-11, 2008-09 and 2013-14 against the order of the Commissioner of Income Tax (Appeals)-2, Coimbatore in ITA.No.104/15-16 dated 30.09.2016, ITA .Nos 92/16-17, 91/16-17, 90/16-17, 89/16-17 and 88/16-17 all dated 30.05.2017 against order of the Income Tax officer, Non - Corporate Ward -1(1), Coimbatore in PAN No./G.I.R. No. AAEFT8389H dated 30.03.2015, PAN No./G.I.R. Nos. AAEFT8389H(TCA 816 to 820/18) DATED 08.03.2016, 09.03.2016 AND 04.03.2016 for the Assessment years 2008-09, 2009-10, 2010-11,2011-12 and 2013-14 respectively.

For Appellant in all TCAs: Mr.T.R.Senthilkumar

For Respondents in all TCAs: Mr.A.S.Sriraman

COMMON JUDGMENT

(Judgment was delivered by T.S.SIVAGNANAM,J)

These appeals filed by the Revenue are directed against the orders 09.3.2017 and 15.5.2018 passed by the Income Tax Appellate Tribunal in ITA.No.3138/Mds/2016 as well as in ITA.Nos.1908, 1910, 1999, 1907 and 1911/Chny/2017 for the assessment years 2012-13 as well as 2009-10, 2011-12, 2010-11, 2008-09 and 2013-14.

2. The Revenue has filed these appeals raising the following substantial question of law :

> "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in holding that the assessee is entitled for deduction on proportionate basis, when the housing project was not completed within the time specified under Section 80IB(10) of the Income Tax Act?"

3. We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel for the Revenue and Mr.A.S.Sriraman, learned counsel appearing for the assessee.

4. It may not be necessary for us to go into the issue raised nor answer the substantial question of law, as we find that the order passed by the Tribunal is a pure and simple remand order. The Tribunal has merely remanded the matter to the Assessing Officer for adjudication afresh. Under normal circumstances, when a remand order is passed, the Courts will consider as to whether, while remanding the matter, the Tribunal or the Appellate Authority directed the Lower Authority to decide the matter in a particular manner. In such circumstances, the aggrieved party can pursue the appeal and contend that the remand is not a open remand, but a qualified remand and the Court should test as to whether such a qualification or observation or finding or direction was justified or not.

5. However, we are not faced with such a problem in this case, as it is a open remand. One more additional factor, which weighed in our mind to make such an observation is on account of the giving effect to orders passed by the Assessing Officer dated 31.10.2017 as well as 31.10.2018 for all the six assessment years. In fact, in some of those orders, the finding of the Assessing Officer appears to be against the assessee on certain new issues, against which, the assessee is in the process of filing appeals before the Commissioner of Income Tax (Appeals).

6. In our considered view, nothing would survive in these appeals for consideration and accordingly, the appeals stand disposed of. The substantial question of law is left open. No costs. Consequently, the connected CMPs are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

RS

To

1.The Income Tax Appellate Tribunal,
Chennai 'A' Bench and 'D' Bench.

2.The Principal Commissioner of Income Tax-I
Coimbatore.

3.The Commissioner of Income Tax (Appeals)-2,
Coimbatore.

4.The Income Tax officer,
Non-Corporate Ward-1 (1),
Coimbatore.

+1cc to Mr.T.R.Senthilkumar, Advocate, S.R.No.79382

TCA.Nos.665 of 2017 &
816 to 820 of 2018 and
all connected pending CMPs

NMI(CO)

rrs 28/12/2018