In the High Court of Judicature at Madras

Dated : 03.6.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.1134 to 1137 of 2007
and 1124 to 1126 of 2008

The Commissioner of Wealth
Tax, Chennai ...Appellant

Vs

M/s.Tamil Nadu Real Estates
Ltd., Chennai-34 ...Respondent

APPEALS under Section 27A of the Wealth Tax Act, 1957 against (i) the common order dated 26.8.2005 in WTA Nos.22 to 25/Mds/1999 on the file of the Income Tax Appellate Tribunal Madras 'B' Bench and (ii) the common order dated 31.10.2007 in WTA.Nos.26 to 28/Mds/2006 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench respectively for the assessment years 1992-93, 1993-94, 1994-95, 1995-96, 1996-97, 1997-98 and 1998-99.

For Appellant : Mrs.V.Pushpa and Mrs.S.Premalatha
for Mr.M.Swaminathan
For Respondent : Mr.G.Baskar

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

Heard the learned Standing Counsel for the appellant.

2. The Revenue has preferred these appeals challenging the common order dated 26.8.2005 in WTA.Nos.22 to 25/Mds/1999 and the common order dated 31.10.2007 in WTA.Nos.26 to 28/Mds/2006 passed by the Income Tax Appellate Tribunal respectively for the assessment years 1992-93, 1993-94, 1994-95, 1995-96, 1996-97, 1997-98 and 1998-99.

3. TCA.Nos.1134 to 1137 of 2007 were admitted on 21.8.2007 on the following substantial questions of law :

> *"i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in rejecting the land and building method adopted for the purpose of valuing the property, which was partly occupied by the assessee and partly let out especially when there was a vast stretch of unbuilt area, which exceeded the specified area by more than 20% of the aggregate area ? And*
>
> *ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in not considering Proviso III of the Explanation appended to Rule 5 of the Wealth Tax Rules ?"*

4. TCA.Nos.1124 to 1126 of 2008 were admitted on 30.7.2008 on the

following substantial questions of law :

> *"i. Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in law in rejecting the land and building method adopted for the purpose of valuing the property, which was partly occupied by the assessee and partly let out especially when there was a vast stretch of unbuilt area, which exceeded the specified area by more than 20% of the aggregate area ?*
>
> *ii. Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in law in not considering Rule 8(b) read with Rule 20 of Schedule III of the Wealth Tax Act? And*
>
> *iii. Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in law in not considering Proviso III of the Explanation appended to Rule 5 of the Wealth Tax Rules ?"*

5. The Revenue seeks to withdraw the appeal on account of low tax effect in terms of (i) Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes and (ii) Circular No.5 of 2019 dated 05.2.2019 issued by the same Central Board of Direct Taxes subsequently, extending the scope of Circular No.3 of 2018 dated 11.7.2018 with regard to wealth tax.

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RS

6. In the light of the above, the appeals are dismissed as withdrawn and the substantial questions of law framed are left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeals to be heard and decided on merits. No costs.

(T.S.S.J.) (V.B.S.J.)
03.6.2019

Speaking (or) Non Speaking Order
Index : Yes (or) No
Internet : Yes (or) No

To
The Income Tax Appellate Tribunal, Madras 'B' and 'C' Benches.

TCA.No.1134 of 2007
etc. cases