IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 09-04-2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

T.C.A.Nos.185, 186, 187, 1348 & 1349 OF 2009

M/s.Carborundam Universal Ltd.... Appellant in all Appeals

-vs-

The Joint Commissioner of Income Tax,
Special Range - I,
Chennai - 600 034. ... Respondent in TCA Nos.185-187/2009

The Joint Commissioner of Wealth Tax,
Special Range - I,
Chennai - 600 034. ... Respondent in TCA Nos.1348 & 1349/2009

T.C.A.No.185/2009 is filed under Section 27A of the Wealth Tax Act,1957, against the order of the Income Tax Appellate Tribunal, Chennai 'A' Bench, dated 17.08.2005, passed in WTA No.97/Mds/2000.

T.C.A.No.186/2009 is filed under Section 27A of the Wealth Tax Act,1957, against the order of the Income Tax Appellate Tribunal, Chennai 'A' Bench, dated 17.08.2005, passed in WTA No.98/Mds/2000.

T.C.A.No.187/2009 is filed under Section 27A of the Wealth Tax Act,1957, against the order of the Income Tax Appellate Tribunal, Chennai 'A' Bench, dated 17.08.2005, passed in WTA No.171/Mds/2000, against the proceedings of the Commissioner of Income Tax (A)-V, Chennai-34 dated 2.3.2000 for the Assessment Year 1997-98, 1998-99 and 1996-97 against the proceedings of the Joint Commissioner of Income Tax, Chennai-34 for the Assessment Year 1997-98, 1998-99 & 1996-97.

T.C.A.No.1348/2009 is filed under Section 27A of the Wealth Tax Act,1957, against the order of the Income Tax Appellate Tribunal, Chennai 'A' Bench, dated 01.09.2005, passed in WTA No.90/Mds/1999, against the proceedings of the Commissioner of Income Tax (Appeals)-V, Chennai-34 dated 25.6.99 for the Assessment Year 1995-96, 1996-97 against the Joint Commissioner of Income Tax, Special Range-I, Chennai dated 23.12.98.

T.C.A.No.1349/2009 is filed under Section 27A of the Wealth Tax Act,1957, against the order of the Income Tax Appellate Tribunal, Chennai 'A' Bench, dated 01.09.2005, passed in WTA No.91/Mds/1999.

For Appellant in all Appeals : Mr.R.Venkatanarayanan
for
Mr.R.Vijayaraghavan

For Respondent in all Appeals : Mr.T.Ravikumar,
Senior Standing Counsel.

JUDGMENT

(By Dr.Vineet Kothari,J.)

Assessee has filed these Appeals under Section 27A of the Wealth Tax Act,1957, aggrieved by the orders passed by the learned Income Tax Appellate Tribunal, dated 17.08.2005 and 01.09.2005, for various Assessment Years from 1995-1996 to 1998-1999, by which, the Appeals filed by the Assessee came to be dismissed.

2. These Appeals filed by the Assessee were admitted by a Co-ordinate Bench of this Court on 21.04.2009/08.12.2009 on the following Substantial Questions of Law :

> ''1. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the Transit House is assessable under Wealth Tax ?
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal was right in not considering the specific arguments of the appellant that the amendment brought under Section 37 (V) of the Income Tax Act treating the Transit House as Guest House, the same meaning cannot be read into Wealth Tax Act, unless and until there is a specific amendment to that effect in Wealth Tax Act ?
>
> 3. Whether on the facts and in the circumstances of the case, the Tribunal was right in confirming the order of the lower authorities when

the same has been passed in an intimation under Section 16 (1) (a) when the issues are highly debatable ?''

3. The only issue raised before the learned Tribunal by the Assessee was, as to whether 'Transit House' fell within the definition of 'Assets', as defined in Section 2 (ea) of the Wealth Tax Act,1957, and was assessable to Wealth Tax or not ?

4. The learned Tribunal disposed of the Appeals filed by the Assessee only following its earlier decision in the case of Assessee itself in W.T.A.Nos.156,157 & 158(Mds)/97, dated 23.02.2004.

5. Learned counsel for the Assessee has brought to our notice that the above issue has been decided in favour of the Assessee by a Co-ordinate Bench of this Court under the Income Tax Act and also under the Wealth Tax Act.

6. Under the Income Tax Act in Commissioner of Income Tax v. Carborandum Universal Ltd. (present Assessee), (2000) 241 ITR 407, and under the Wealth Tax Act in Carborandum Universal Ltd. v. Deputy Commissioner of Income Tax, (2013) 83 DTR 75 (Mad), two different Co-ordinate Benches of this Court have decided the said issue in favour of the Assessee.

7. However, learned Senior Standing Counsel for the Revenue has submitted that there are some judgments, which are against the Assessee, on the issue. In support of his case, the learned Senior Standing Counsel has relied upon the decisions of Madras High Court in Salem Co-operative Sugar Mills v. Commissioner of Income Tax, (1999) 240 ITR 910, and Binny Ltd. v. Assistant Commissioner of Wealth Tax, (2010) 324 ITR 34; a decision of Karnataka High Court in Commissioner of Income Tax v. IBM India Ltd., (2010) 326 ITR 170; and a decision of Delhi High Court in Purolator India Ltd. v. Commissioner of Income Tax, (2007) 164 TAXMAN 164.

8. In view of the aforesaid rival submissions, we are of the view that the learned Tribunal should decide the Appeals once again, following the subsequent development of law and also the subsequent decisions rendered by various High Courts.

9. Accordingly, these Appeals are disposed of, without answering the Questions of Law framed above. The matters are

remitted back to the learned Tribunal to decide the Appeals filed by the Assessee de novo, taking into consideration the judgments cited by both sides as above as well as other decisions, if any, relied upon. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dixit

To

1.The Joint Commissioner of Income Tax,
Special Range - I,
Chennai - 600 034.

2.The Joint Commissioner of Wealth Tax,
Special Range - I,
Chennai - 600 034.

3. The Registrar,
Income Tax Appellate Tribunal,
Chennai 'A' Bench,
Chennai.

+2ccs to M/S.T.Ravikumar, Advocate Sr.34994,34995
+1cc to M/S.Subbaraya Aiyar Padmanabhen, Advocate Sr.35217

T.C.A.Nos.185,186,187,1348 & 1349/2009

ppa[co]
srg 24/05/2019