IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.322 of 2009

The Commissioner of Income Tax,
Chennai - III.
...Appellant

-vs-

M/s.New Ambadi Investments (P) Ltd.,
Parry House, 5th Floor,
43 Moore Street, Chennai - 600 001.
...Respondent

Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'B' Bench, dated 18.07.2008 in ITA No.437/Mds/2007, for the Assessment year 2000-01, against the order of Commissioner of Income Tax(Appeals) dated 28/09/2006 and made in I.T.A.No.215/05-06 against the Assessment order dated 15/02/05 and made in P.A.NO./G.I.NO. AABCN2115M of Deputy Commissioner of Incoe Tax, Company Circle IV(4), Chennai for the Assessment year 2000-01.

For Appellant : Mr.Karthick Ranganathan,
V.Rajesh

For Respondent : Mr.M.P.Senthil Kumar

JUDGMENT

[Judgement of the Court was made by T.S.Sivagnanam, J.]

This Tax Case Appeal by the appellant/Revenue is directed against the order of the Income Tax Appellate Tribunal Chennai 'B' Bench, dated 18.07.2008 in ITA No.437/Mds/2007, for the Assessment year 2000-01.

2.Heard Mr.Karthick Ranganatha and Mr.V.Rajesh, learned counsel for the appellant/Revenue and Mr.M.P.Senthil Kumar, learned Counsel for respondent/assessee.

3.This Appeal has been admitted on 29.04.2009, on the following Substantial Questions of Law:

> "(i)Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the Assessing Officer could not make a disallowance under Section 14A in the impugned assessment without noticing that the proviso to Section 14A applies only to making a reassessment under Section 147 of the Act and does not apply to cases where the original return was processed under Section 143(1) of the Act only and assessment was made for the first time under Section 147 of the Act?
>
> (ii)Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in not going into the merits of the appeal by just holding that 'reassessment' under Section 147 of the Act was not possible in view of the proviso to Section 14A of the Act."

4.We have perused the order of Assessment as well as the Order passed by the Commissioner of Income Tax and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue this Appeal in view of the low tax effect. Hence, the Appeal is dismissed and the Substantial Questions of Law, framed for consideration, are left open. No costs. The Revenue is at liberty to seek for restoration of appeal, if at a later point of time, it is found that the tax effect is above the threshold limit.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.Income Tax Appellate Tribunal,
Chennai 'B' Bench,
Chennai.

2.The Commissioner of Income Tax(Appeals) XII,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034.

3.Deputy Commissioner of Income Tax,
Company Circle IV(4),
Chennai-600 034.

nr 16/07/2019