IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.4.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case No.650 of 2008

Commissioner of Income Tax
Chennai ...Appellant

..Vs..

M/s.Blue Lagoon Motels &
Properties Pvt. Ltd.,
40, Gandhimandapam Road,
Chennai 600 085. ...Respondent

Tax Case filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai, dated 18.10.2007 made in ITA No.2799/Mds/2005 as against the order dated 09/09/06 of the Commissioner of Income Tax (Appeals) in order No.ITA.No.183/2005-2006/A-III as against the order dated 24/03/05 of the Asst. Commissioner of Income Tax, Chennai in PAN/GIR NO.AAACB 2664A for the Assessment Year 2002-03.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.A.S.Sivaraman for
Mr.S.Sridhar

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J)

This Tax Case has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'A' Bench, Chennai, dated 18.10.2007 made in ITA No.2799/Mds/2005, by raising the following substantial questions of law:

"i) Whether, in the facts and circumstances of the case the Tribunal was right in holding that the sale proceeds of the land at Sholinganallur and Thirupathy are not

assessable as business income when the land was sold after dividing them into plots?
ii) Whether, in the facts and circumstances of the case, the Tribunal was right in holding that the sale proceeds of the land cannot be subjected to long term capital gains tax?
iii) Whether, in the facts and circumstances of the case, the Tribunal was right in not considering the ground raised by the Revenue to the effect that the assessee had adduced an additional evidence in the form of VAO Certificate before the CIT(A) and the assessing officer must have given an opportunity in this regard?
iv) Whether, in the facts and circumstances of the case, the Tribunal was right in treating the amounts advanced by the assessee in the form of finance transaction which were claimed as not realizable and written off in the books as allowable bad debts when the assessee is not in the business of financing?
v) Whether, in the facts and circumstances of the case, the Tribunal was right in holding that the assessee is eligible for the deduction of interest paid towards loan for purchase of cards when it is not the case before the assessing officer and the assessee had taken such plea before the CIT(A) for the first time?
vi) Whether, in the facts and circumstances of the case, the Tribunal was right in holding that the assessing officer had considered the letter of the assessee wherein it was stated that the long term capital gains reported in its return may be treated as Nil?"

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed RS.50 lakhs.

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Tax Case filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

ssk.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Income Tax
   Chennai

2. The Income Tax Appellate Tribunal,
   Madras 'A' Bench, Chennai

3. The Deputy Commissioner of
   Income Tax,
   Company Circle - I(2), Chennai.

4. The Assistant Commissioner of Income Tax,
   (Company Circle-I(2),
   Chennai - 34.

+1cc to Mr.S.Sridhar, Advocate, SR.No.36178
+1cc to Mr.T.Ravikumar, Advocate, SR.No.36130

TC No.650 of 2008

Kak(05/07/2019)