IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 2.12.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case No.919 of 2008

Commissioner of Income Tax
Chennai ... Appellant

Vs.

M/s.Parma & Vijay Investment &
Financing Co. P. Ltd.,
(Now merged with Adyar Gate
Hotels Ltd.),
132, TTK Road, Chennai 600 018. ... Respondent

Tax Case filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 17.12.2007 made in ITA No.1965/Mds/2007,

preferred against the order dated 23/03/2007 passed by the Commissioner of Income Tax (Appeals)-V, Chennai in ITA No.337 of 2004-05 preferred against the order of the Assistant Commissioner of Income Tax, Company Circle-V(1) Chennai dated 24/10/2004 for the Assessment Year 2002-2003.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.Venkat Narayanan

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, 'B' Bench, Chennai, dated 17.12.2007 made in ITA No.1965/Mds/2007, for the Assessment Year 2002-2003, by raising the following substantial question of law:

"Whether on the facts and circumstances of the case, the Tribunal was right in holding that interest paid on loans borrowed for subscribing to the rights issue of a company should be treated as a business expenditure, even tough the dividends earned are to be treated as income from other sources?"

2. When the matter is taken up for hearing, learned Senior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, 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.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed, as withdrawn, keeping open the substantial question of law for determination in appropriate cases. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To

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

2. Commissioner of Income Tax
Chennai.

3. The Assistant Commissioner of
Income-tax,
Company Circle I(1), Chennai.

4. The Commissioner of Income Tax(Appeals)-V,
Chennai-34.

5. The Assistant Commissioner of Income Tax,
Company Circle V(1),
Chennai-34.

T.C.No.919 of 2008

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srg 29/01/2020