In the High Court of Judicature at Madras

Dated : 19.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.1059 of 2010

The Commissioner of Income Tax, Chennai ...Appellant

Vs

Smt.Vijaya Rajan ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 30.4.2010 made in ITA.No.2212/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2003-04. as against order of the commissioner of Income Tax Appeals VI-Chennai.34, made ITA No.NIL, dated 3.6.2007 as against the order of the Income Tax Officer ward II(1), Chennai, for the Assessment Year 2003-2004-dated 27.03.2006.

For Appellant:Mr.M.Swaminathan, SSC assisted by
Ms.S.Premalatha, SC
For Respondent:Mr.R.Venkata Narayanan for
M/s.Subbaraya Aiyer Padmanabhan

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.M.Swaminathan learned Senior Standing Counsel, assisted by Ms.S.Premalatha, Standing Counsel appearing for the appellant - Revenue and Mr.R.Venkata Narayanan, learned counsel for the respondent - assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 30.4.2010 made in ITA.No. 2212/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2003-04.

3. The appeal was admitted on 06.12.2010 on the following substantial question of law :

"Whether, on the facts and circumstances of the case, the Tribunal was right in holding that 'no short term capital gains' can be computed on the sale of 50% share of the property that was acquired on payment of consideration to the assessee's brother and is entitled for the benefit of Section 54EC ?"

4. The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial question of law framed is 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 appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//
Sub Assistant Registrar

RS

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

2.The Commissioner of Income Tax (Appeals)
Chennai-34.

3.The Income Tax Officer,
Ward II(1), Chennai-34.

+1cc to M/S.M.Swaminathan, Advocate Sr.70421
+1cc to M/S.Subbaraya Aiyer Padmanabhan, Advocate SR.70477

TCA.No.1059 of 2010

CNR(CO)
CB(14/10/2019)