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 Nos.1091 to 1094 of 2010

The Commissioner of Income Tax, Chennai ...Appellant in all the TCAs

Vs

Shri.P.Damodaran ...Respondent in TCA.Nos.1091 to 1093/2010

Smt.Padma Damodaran ...Respondent in TCA.No.1094/2010

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 02.1.2009 made in ITA.Nos.723 to 725/Mds/2008 respectively for the assessment years 2001-02 to 2003-04 as well as ITA.No. 726/Mds/2008 for the assessment year 2002-03 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench.

Against the Appellate Order of the commissioner of Income Tax (Appeals)-V, Chennai dated 28.12.2007 and made in ITA.Nos. 213, 214, 215, & 217/2006-07 for the Assessment Year 2000-01, 2002-03, 2003-04 and 2002-03 and

against the Assessment Order of the Income Tax Officer, Company Ward VI (1), Chennai dated 21.03.2006 and made in PAN/GIR No. ADSPD 3681R/WSI 63 P1 for the Assessment Year 2000-01 2002-03 & 2003-04; and dated 16.03.2006 and made in PAN/GIR No.AFXPP8280M/ WSI63-P2 for the Assessment Year 2002-03.

For Appellant: Mr.T.R.Senthilkumar, SSC assisted by
in all T.C.As Ms.K.G.Usharani, SC

For Respondents:Mr.G.Baskar
in all T.C.As

COMMON JUDGMENT

(Judgment was delivered by T.S.Sivagnanam,J)

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant - Revenue and Mr.G.Baskar, learned counsel appearing for the respondents.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated 02.1.2009 made in ITA.Nos.723 to 725/Mds/2008 respectively for the assessment years 2001-02 to 2003-04 as well as ITA.No.726/Mds/2008 for the assessment year 2002-03 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench.

3. The appeals were admitted on 14.3.2001 on the following substantial questions of law :

> "i. Whether, on the facts and circumstances of the case, the Tribunal was right in enhancing the profit eligible under Section 80IB by adding back the disallowances made by the Assessing Officer that was not pressed before the Commissioner of Income Tax (Appeals) ? And
>
> ii. Whether, on the facts and circumstances of the case, the Tribunal was right in taking up the assessee's appeal alone as regards the eligible profits under Section 80IB when the Revenue's appeal as against the order of the Commissioner of Income Tax (Appeals) allowing deduction of entire profit was already there on the file of the Tribunal?"

4. The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 the respective cases is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeals are dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect in the respective cases 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 appeals to be heard and decided on merits. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

RS

To

1.The Income Tax Appellate Tribunal,
Chennai 'D' Bench.

2.The Commissioner of Income Tax,
Chennai.

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

4.The Income Tax Officer,
Company Ward VI (1),
Chennai.

TCA.Nos.1091 to 1094
of 2010

PA(CO)
GN(15/10/2019)