IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.8.2019

CORAM :

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

TAX CASE APPEAL NO.595 OF 2010

The Commissioner of Income Tax, Chennai ...Appellant

Vs

K.Muruganandam ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 30.10.2009 made in ITA.No.797/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2004-05. filed against the Order of the Commissioner of Income Tax (Appeal 1) Coimbatore dated 11.02.2008 made in Appeal No.268/06-07 preferred against the Assessment order dated 27.11.2006 by the Deputy Commissioner of Income Tax Circle II, Coimbatore 18 for the Assessment year 2004-05, in PAN.NO.AEUPMO847D.

For Appellant :Mr.T.Ravikumar, SSC

For Respondent :Mr.A.S.Sriraman

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel appearing for the appellant – Revenue and Mr.A.S.Sriraman, learned counsel appearing 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 30.10.2009 made in ITA. No.797/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2004-05.

3. The appeal was admitted on 02.8.2010 on the following substantial questions of law :

"i. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the amount of non compete fee received by the assessee was not taxable as it was capital receipt ? and

ii. Whether the Tribunal was right in not considering Section 28(va) of the Income Tax Act, 1961 ?"

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 questions of law framed are 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 IV)

//True Copy//

Sub Assistant Registrar

RS
To
1. The Assistant Registrar,
The Income Tax Appellate Tribunal, Chennai 'A' Bench.

2. The Commissioner of Income Tax (Appeal I), Coimbatore.

3. The Deputy Commissioner of Income Tax,
Circle II, Coimbatore-18

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.70999
+1cc to Mr.S.Sridhar, Advocate, S.R.No.70616

TCA.No.595 of 2010

RSI(CO)
CS/24/10/2019