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.459 of 2011

Commissioner of Income Tax
-I, Chennai ...Appellant/Appellant

Vs

M/s.AIG Home Finance India Ltd.,
Chennai-17. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 05.5.2011 made in ITA.No.2167/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2005-06,

against the order dated 30/09/2010 made in ITA Tr.No.4/2010/A,III on the file of the Commissioner of Income Tax (Appeals)-III, Chennai, and against the order dated 20/12/2017 on the file of the Additional Commissioner of Income Tax, Range-12, Banglore in PAN/GIR No.AACW1328G the Assessment Year 2005-06.

For Appellant:Mr.T.Ravikumar, SSC and
Mrs.R.Hemalatha, SSC

For Respondent:Mr.R.Venkatanarayanan for
M/s.Subbaraya Aiyer Padmanabhan

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.Ravikumar and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant - Revenue and Mr.R.Venkata Narayanan, 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 05.5.2011 made in ITA.No. 2167/Mds/2010 on the file of the

Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2005-06.

3. The appeal was admitted on 04.1.2012 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in confirming that deletion of the disallowance of 50% of the claim made by the assessee under brokerage purely relying on norm of 2% brokerage for deposit mobilization prescribed by the National Housing Bank, overlooking the fact that in the assessee's case, no details were produced as to whether the eight persons to whom the brokerage was paid had actually mobilized deposits ? And
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> ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the Assessing Officer was not justified in restricting the deduction under Section 36 (1)(viii) to Rs.1,48,39,750/- as against the assessee's claim of Rs.2,70,00,000/- even though such restriction related to income from securitization, processing fee and administrative charges, which could not be considered as income 'derived from' the business of providing long term housing finance, but could at best be considered only as income incidental to or attributable to the said business?"

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

//True Copy//

Sub Assistant Registrar

To

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

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

3.The Additional Commissioner of Income Tax,
Range-12, Bangalore.

4.The Income Tax Appellate Tribunal,
Bangolare Bench 'A'.

+1cc to Mr.T.Ravikumar, Advocate Sr.70546
+1cc to Mr.Subramaniya Aiyar Padmanabhan, Advocate Sr.71041

TCA.No.459 of 2011

nr[co]
srg 23/10/2019