IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM

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

Tax Case Appeal No.343 of 2012

The Commissioner of Income Tax,
Chennai III, Chennai. .. Appellant/Respondent

-vs-

M/s.MEC International Pvt. Ltd.,
Old No.37, New No.6, Arcot Road,
Vadapalani, Chennai-600 026. .. Respondent/Appellant

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 16.04.2012, on the file of the Income-tax Appellate Tribunal Chennai 'A' Bench, Chennai, in I.T.A.No.731/Mds/2011 for the assessment year 2006-07 Against the order of the Commissioner of Income Tax Appeals III, chennai 34 made in C.NO. 3033/216-C17-III/10-11 dated 10.02.2011 and against the order of Income tax Officer,Company Circle IV(2), chennai made in GI/PA.NO. AAACM 6504C dated 04.12.2008 the Assessment Year 2006-2007.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel

: assisted by Ms.V.Pusha,
Junior Standing Counsel

For Respondent : Ms.Sree Lakshmi Valli,
for Mr.G.Baskar

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JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, is directed against the order dated 16.04.2012, passed by the Income-tax Appellate

Tribunal Chennai 'A' Bench, Chennai, in I.T.A.No.731/Mds/2011 for the assessment year 2006-07.

2.The above appeal has been filed raising the following substantial questions of law and the same was admitted on 08.11.2012:-

> "(i) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the order of the Commissioner of Income Tax under Section 263 is in error, in which the Commissioner has set aside the order of the assessing officer and directed the assessing officer to compute capital gains, arising out of the lease agreement dated 01.06.2005 executed by the assessee, in accordance with law?
>
> (ii) Whether under facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the commissioner of Income Tax fell in error in holding that the lease transaction is a transaction of sale, while the commissioner never considered the transaction as a transaction of sale?
>
> (iii) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the lease agreement entered into by the assessee was only a simple agreement for letting out of residential flat and there is no transaction of right or relinquishment of right by the assessee?
>
> (iv) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that decisions in the case of Traders and Miners Ltd. vs. CIT 27 ITR 341 (Patna); A.R.Krishnamurthy vs. CIT 176 ITR 417 (SC); CIT vs. C F Thomas 284 ITR 557 (Ker); and CIT vs. Sujatha Jeweller 290 ITR 631 (Mad) relied on by the Revenue are distinguishable on facts?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Junior Standing Counsel for the appellant and Ms.Sree Lakshmi Valli, learned counsel for Mr.G.Baskar, learned counsel for the respondent.

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 08.08.2019 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)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Income Tax Officer,
Company Circle IV(2), Chennai.

2.The Commissioner of Income,
Chennai-III, Chennai-34.

3.The Income-tax Appellate Tribunal Chennai 'A' Bench, Chennai.

+1cc to Mrs.Sree Lakshmi , Advocate SR.No. 72274

pvs
A.SK(20/11/2019)