In the High Court of Judicature at Madras

Dated : 27.08.2019

Coram :

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

Tax Case Appeal No.144 of 2015

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

Vs

Shri K.Srinivasan ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 16.06.2014 made in ITA.No.102/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2006-07, and against the order passed by the Commissioner of Income Tax(Appeals)-VI, Chennai-37, dt.31/10/12 made in ITA.No.301/11-12 and against the order of the Assistant Commissioner of Income Tax, Business Circle-II, Chennai, dt.27/12/11 made in PA.No/GIR.No.AAAHK0187L for Assessment year 2006-2007.

For Appellant :Ms.R.Hemalatha, SSC assisted by
Mr.T.Ravikumar, SSC

For Respondent:Mr.R.Kumar

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel assisted by Ms.R.Hemalatha, learned Standing Counsel appearing for the appellant - Revenue and Mr.R.Kumar, 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 16.06.2014 made in ITA.No.102/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2006-07.

3.The appeal was admitted on 15.04.2015 on the following substantial questions of law :

> "i.Whether on the facts and circumstances of the case, the Tribunal was right in holding that share held by the assessee for a longer period is to be treated as investment resulting in long term capital gains and shares held for shorter duration was to be considered as income from business?
>
> ii.Is not the finding of the Tribunal perverse especially when it had held the shares held for a period of 30 days were to be treated as short term and for a period of more than 30 days were to be treated as long term investment and the same cannot be the yardstick to determine the taxability of income under the head business? and
>
> iii.Whether the computation of income on profit on sale shares constitute long term capital gains or business income?"

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-VIII)

//True Copy//
Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,
Chennai.

3.The Commissioner of Income Tax(Appeals)-VI,
Chennai-34.

4.The Assistant Commissioner of Income Tax,
Business Circle-II, Chennai.

+1cc to Mr.T.N.Seetha Raman, Advocate SR.74493
+1cc to Mr.T.Ravikumar, Advocate SR.73350

TCA.No.144 of 2015

CA(CO)
CB(21/11/2019)