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.20 of 2015

Commissioner of Income Tax,
63, Race Course Road,
Coimbatore - 641 018. ...Appellant/Respondent

Vs

M/s.Future Gaming Solutions Pvt. Ltd.,
335-339, Daisy Plaza, 6th Street,
Gandhipuram, Coimbatore - 641 012.
PAN: AABCM9751G ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 07.05.2014 made in ITA.No.1616/MDS/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2008-09 and against the order of the Commissioner of Income Tax (Appeals)1, Coimbatore and made in Appeal No. 49/2011-2012 PAN.No. AABCM9751G date of order 12.06.2012 and Deputy Commissioner of Income Tax, Company Circle I(3) Coimbatore and made in P.A. No/GIR No. AABCM9751G dated of order 28.06.2011.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani

For Respondent: Mr.A.S.Sriraman for Mr.S.Sridhar

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 counsel appearing for the appellant/revenue and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, 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

07.05.2014 made in ITA.No.1616/MDS/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2008-09.

3.The appeal was admitted on 17.02.2015 on the following substantial questions of law :

> "1.Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in cancelling the penalty levied under Section 271(1)(c) when the assessee concealed the difference amount of Rs.32,61,310/- on sale of Capital Gain which was noticed by the Assessing Officer and thereafter the assessee filed the revised computation of capital gain and paid the tax thereon?
>
> 2.Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in cancelling the penalty levied under Section 271(1)(c), when the assessee has not declared the short term capital loss as required under Section 94(7) of the Income Tax Act?"

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.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

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

2.The Commissioner of Income Tax
(Appeals)1, Coimbatore

3.The Deputy Commissioner of Income Tax
Company Circle I(3) Coimbatore

+1 CC to Mr.S.Sridhar, Advocate sr 74508.
+1 CC to Mr.T.R.Senthilkumar, Advocate sr 73636

TCA.No.20 of 2015

RR(CO)
SP(13/11/2019)