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.473 of 2015

Commissioner of Income Tax,
Ward I (3), Tirunelveli. ...Appellant/Appellant

Vs

Smt.Rema Jayakumar,
Prop. Sikaram Oil Traders,
33/B, Vasanth Nagar, Kokirakulam,
Tirunelveli.
PAN: ABOPR4205R ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 31.07.2014 made in ITA.No.2247/MDS/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10 against the order of the Commissioner of Income Tax Appeals-II (i/c) Madurai dated 06.09.2012 and made in ITA.NO.405/2011-2012 for the Assessment year 2009-2010.

Against the order of the Income-tax officer, Ward-I(3) Tirunelveli dated 21.12.2011 and made in PAN.ABOPR4205r For the Assessment year 2009-2010.

For Appellant : Mr.M.Swaminathan, SSC
and Ms.V.Pushpa, SC
For Respondent: Mr.G.Baskar

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

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel, and Ms.V.Pushpa, learned Standing Counsel appearing for the appellant/revenue and Mr.G.Baskar, 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 31.07.2014 made in ITA.No.2247/MDS/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10.

3.The appeal was admitted on 22.07.2015 on the following substantial questions of law :

> "1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in recalling and reversing its own order dated 18.09.2013?
>
> 2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the disallowance u/s.40A(3)?
>
> 3.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the disallowance without discussing why they are overruling their own decision dated 18.09.2014 which was in favour of the Revenue?"

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/-
Asst.Registrar (CS III)

/true copy/
Sub Asst. Registrar

cse

To

1.The Commissioner of Income Tax(Appeals)-II(i/c)
Madurai.

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

3.The Income tax officer Ward I(3)
Tirunelveli

+1 cc to Mr.G.Baskar Advocate sr73840
+1 cc to Mr.M.Swaminathan Advocate sr73570

sv(co)
aa05/11/2019