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.48 of 2015

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

Vs

Smt.R.Mallika ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 22.07.2014 made in ITA.No.2046/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2007-08 and against the order of the Commissioner of Income Tax (Appeals VIII) Chennai 34 dated 02.09.2013 in I.T.A. No. 45/2011-2012(A) V and against the order of the Income Tax Officer, Business Ward IV(2) Chennai 34 dated 13.10.2011 in PAN. APGPM8401C

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

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

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.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 22.07.2014 made in ITA.No.2046/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2007-08.

3.The appeal was admitted on 03.03.2015 on the following substantial questions of law :

> "1.Whether on the facts and in the circumstances of the case, the Tribunal was justified in granting deduction under Section 54B (1) even though the assessee has not followed the prescribed procedure contemplated under Section 54B(2) viz., deposit into the capital gain account scheme within the time stipulated under Section 139(1)?
>
> 2.Is not the finding of the Tribunal bad, by allowing the 30% of land development and consequent indexation when the alleged expenditure of land filling which had been incurred was prior to the acquisition of land and therefore not allowable as an expenditure?
>
> 3.Whether on the facts and in the circumstances of the case, the Tribunal was justified in allowing the 30% of the land development and consequent indexation especially when the schedule in the sale deed dated 13.02.2007 clearly shows that no compound wall was in existence and therefore the finding of the Tribunal was not proper?"

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 VIII)

True Copy

Sub-Assistant Registrar

To
1.The Income Tax Appellate Tribunal, Chennai 'A' Bench.

2.The Income Tax Officer
Business Ward IV(2), Chennai

3.The Commissioner of Income Tax (Appeals VIII)
Chennai 34

+1 CC to Mr.M.Swaminathan, Advocate sr 73561
+1 CC to Mr.S.Sridhar, Advocate sr 74509

TCA.No.48 of 2015

KK(CO)
SP(12/11/2019)