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.55 of 2015

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

Vs

Dr.P.Sivamani ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 09.04.2014 made in ITA.No.164/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10, against the order dated 06/09/2013 made in ITA.NO.375/2011-12/CIT(A)/TRY on the file of the Commissioner of Income Tax(Appeals) Tiruchirapalli 620 001 against the order dated 30/12/2011 vide PAN/GIR.NO.ALIPS5992A/1(2)/KRR on the file of Income Tax Officer Ward 1(2), Karur.

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

For Respondent: Mr.N.Quadir Hoseyn

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.N.Quadir Hoseyn, 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 09.04.2014 made in ITA.No.164/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10.

3.The appeal has been filed by raising the following substantial questions of law :

> "1) Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition made by the assessing officer with respect to difference in cost of construction of hospital cum residential building as arrived by the DVO and the assessee without considering the retrospective effect of section 142A?
>
> 2) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the reference by the assessing officer to DVO to value the cost of construction is not valid on the ground that the assessing officer had not rejected the books of accounts and assessing officer cannot refer the valuation of cost of construction to DVO without rejecting the books of accounts?
>
> 3) Whether the Tribunal is right in holding that the assessing officer cannot refer the valuation of cost of construction to DVO prior to issue of notice under section 143(2) and the assessing officer has acted on the predetermined notion without analysing the books of accounts and had made addition based on DVO's report?"

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 IV)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax(Appeals),
No.44, Williams Road, Cantonment,
Tiruchirapalli.

3.The Income Tax Officer,
Ward 1(2),
Karur.

+1cc to Mr.M.Swaminathan, Advocate sr.73560

TCA.No.55 of 2015

nr 12/11/2019