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.550 of 2015

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

Vs

M/s.Bharat Scans Pvt. Ltd.,
197, Peters Road, Royapettah
Chennai - 600 014. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 13.02.2014 made in ITA.No.1300/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2009-10

as against the Order dated 18.2.13 of the Commissioner of Income Tax (Appeals)-III, Chennai -34, in ITA No.665/11-12/A-III and as against the Order dated 31.12.11 of the Asst. Commissioner of Income Tax, Chennai, for the Assessment Year 2009-10 in GIR/PAN AABCB 2272 K.

For Appellant : Mr.T.Ravikumar, SSC
and Ms.R.Hemalatha, 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, and Ms.R.Hemalatha, learned Senior 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 20.03.2014 made in ITA.No.1466/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10.

3.The appeal was admitted on 11.08.2015 on the following substantial questions of law :

> "(i) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the PET/CT scan machine is entitled for higher rate of depreciation @ 40%, when the same is not included in the list of equipments in Part A III (3)(xia) of the depreciation table under the Income Tax Rules?
>
> (ii) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the PET/CT scan machine is entitled for higher of depreciation @ 40% on the ground that it performs functions similar to a SPECT Gamma Camera by overlooking the fact that each equipment eligible for higher rate of depreciation is mentioned separately item wise in the depreciation table? and
>
> (iii) Whether in the facts and circumstances of the case, the Tribunal was right in holding that UPS is entitled for higher rate of depreciation @ 40%, when the same is not included in the list of equipments described as life saving medical equipments in Part A III(3)(xia) of the depreciation table under the Income Tax Rules?"

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.

cse

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Asst. Commissioner of Income Tax,
Company Circle-I(2),Chennai -34

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

+1cc to Mr.T.N.Seetharaman, Advocate, SR.No.74491
+1cc to Mr.T.Ravi Kumar, Advocate, SR.No.73330

Kak(22/10/2019)