IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.254 of 2013

Commissioner of Income Tax,
Central II, 108, M.G.Road,
Chennai-600 034. .. Appellant/Appellant

-vs-

Shri.Subashchand Nahar,
6/1, Nahar Drive,
Maharani Chinnamma Road,
Alwarpet, Chennai-600 018.
PAN: AAE PN 6254 B .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 26.11.2012 on the file of the Income-tax Appellate Tribunal 'D' Bench, Chennai, in I.T.A.No.2139/Mds/2010 for the assessment year 2006-07 and against the Order of the Commissioner of Income Tax (Appeals)-II, Chennai -34, made in ITA Nos.234/07-08,dated 20.09.10 and against the Order of the Deputy Commissioner of Income Tax, Central Circle-II (1), Chennai -34, and made in PAN.-AAEPN6258P dated 31.12.2007 for the Assessment Year 2006-07.

For Appellant : Ms.S.Premalatha,
Junior Standing Counsel

: for Mr.M.Swaminathan,
Senior Standing Counsel

For Respondent : Mr.J.Nareshkumar

JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, is directed against the order dated 26.11.2012, passed by the Income-tax Appellate Tribunal 'D' Bench, Chennai, in I.T.A.No.2139/Mds/2010 for the assessment year 2006-07.

2.The above appeal was admitted, on 09.07.2013, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that urban land sold by the assessee falls within the meaning of Capital Asset as per Section 2(14)(iii)(b) of the Income Tax Act during the relevant period 2005-06?
>
> (ii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in dismissing the department appeal without adjudicating legal grounds raised by the Department before the Tribunal and simply following its order passed in the case of other family members?
>
> (iii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that land is agricultural land, when the land was developed along with the adjacent lands into plots which fact indicates that the land in question is not agricultural land during the relevant previous year?
>
> (iv) Whether the Appellate Tribunal is right in deleting the addition of Rs.50 lakhs as unexplained cash when the respondent assessee was unable to prove from the books of accounts and the cash balance as claimed by him as on 26.10.2005?"

3.Heard Ms.S.Premalatha, learned Junior Standing Counsel for Mr.M.Swaminathan, learned Senior Standing Counsel for the appellant and Mr.J.Nareshkumar, learned counsel for the respondent.

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 08.08.2019 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.

abr

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Commissioner of Income Tax,
Central Circle II(1), Chennai.

2.The Commissioner of Income-tax (Appeals)-II,
46, Mahatma Gandhi Road, Nungambakkam,
Chennai-600 034.

3.The Income-tax Appellate Tribunal
'D' Bench, Chennai,

+1cc to Mr.M.Swaminathan, Advocate, SR.No.72337
+1cc to Mr.J.Naresh Kumar, Advocate, SR.No.72325

T.C.A.No.254 of 2013

Kak(18/10/2019)