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.66 of 2015

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

Vs

M/s.R.K.Investments,
28/21, De Monte Colony,
Alwarpet, chennai - 18. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 27.02.2014 made in ITA.No.1907/MDS/2010 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2005-06,

against the order passed by the Commissioner of Income Tax (Appeals) XII, Chennai-34 made in ITA No.492/ 07-08 dated 31/08/2010 and against the order passed by the Assistant commissioner of Income Tax, Tax Circle XV, Chennai, made in GIR No./P.A.No.AAAFR3413Q dated 31.12.2007.

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

For Respondent: Mr.R.Venkatanarayanan
for M/s.Subbaraya Aiyar Padmanabhan

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.R.Venkatanarayanan, learned counsel for M/s.Subbaraya Aiyar Padmanabhan, 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 27.02.2014 made in ITA.No.1907/MDS/2010 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2005-06.

3.The appeal was admitted on 25.02.2015 on the following substantial questions of law :

> "1.Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the interest paid on the borrowings during the earlier years is allowable as deduction from the income earned from purchase and sale of the asset during the year?
>
> 2.Whether in the facts and circumstances of the case, the Tribunal was right in holding that interest paid on the borrowings during the earlier years is allowable as deduction from the income earned from purchase and sale of the asset during the year when the assessee had not proved that the loan borrowed was actually utilised for the purchase of the asset?"

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 VIII)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax,
  (Appeals)-XII, Chennai-34.

3.The Assistant Commissioner of Income Tax,
  Tax Circle XV, Chennai-34.

+1cc to M/s.Subbaraya Aiyar, Advocate Sr.73644
+1cc to Mr.M.Swaminathan, Advocate Sr.73562

TCA.No.66 of 2015

BS(CO)
srg 01/11/2019