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 Nos.343 and 344 of 2013

T.C.A.No.343 of 2013:-

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

-vs-

M/s.Macro Marvel Projects Ltd.,
Glenden Place, 813, Poonamallee High Road,
Kilpauk, Chennai-600 010. .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 27.11.2012, on the file of the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.1685/Mds/2010 for the assessment year 2005-06,

against the order passed by the Commissioner of Income Tax (Appeals)V, Chennai-34, made in ITA No.256/07-08 dated 08/10/2010 and 01/07/2010 and against the Assessment order passed by the Assistant Commissioner of Income Tax, Company Circle IV(1), Chennai-34 made in PAN/GIR No.AACCM8816D/MA 254 dated 31/12/2007.

T.C.A.No.344 of 2013:-

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

-vs-

M/s.Macro Marvel Projects Ltd.,
Glenden Place,
813, Poonamallee High Road,
Kilpauk, Chennai-600 010. .. Respondent/Appellant

Appeal under Section 206A of the Income-tax Act, 1961, against the order dated 27.11.2012, on the file of the Income-tax Appellate Tribunal 'C' Bench, Chennai, in C.O.No.117/Mds/2011 in I.T.A.No.1685/Mds/2010 for the assessment year 2005-06, against the order passed by the Commissioner of Income Tax (Appeals)V, Chennai-34, made in ITA No.256/07-08 dated 08/10/2010 and 01/07/2010 against the Assessment order passed by the Assistant Commissioner of Income Tax, Company Circle IV(1), Chennai-34 made in PAN/GIR No.AACCM8816D/MA 254 dated 31/12/2007.

For Appellant : Mr.S.Rajesh,
(In both Appeals) Standing Counsel

: For Mr.Karthik Ranganathan,
Senior Standing Counsel

For Respondent : Mr.R.Sivaraman
(In both Appeals)

COMMON JUDGMENT

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

These appeals filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, are directed against the common order dated 27.11.2012, passed by the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.1685/Mds/2010 and C.O.No.117/Mds/2011 in I.T.A.No. 1685/Mds/2010 for the assessment year 2005-06.

2.The above appeals were admitted, on 04.11.2013, on the following substantial questions of law:-

> "(i) Whether in the facts and circumstances of the case the Income Tax Appellate Tribunal is right in holding that assessee is to be given proportionate allowance of deduction under Section 80IB of the Income Tax Act in respect of residential units with less than 1500 sq.ft.?
>
> (ii) Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in upholding the order of the Commissioner of Income Tax that the claim made by the assessee through revised computation statement is to be considered by the Assessing Officer, though such claim was not made through a valid return of income?
>
> (iii) Whether in the facts and circumstances of the case the Income Tax Appellate Tribunal is right in directing the Assessing Officer to

consider the issue of disallowance under Section 40(1)(ia) afresh in accordance with law?"

3.Heard Mr.S.Rajesh, learned Standing Counsel for Mr.Karthik Ranganathan, Senior Standing Counsel for the appellant and Mr.R.Sivaraman, learned counsel for the respondent.

4. The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 appeals are 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 appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner of Income-tax,
Company Circle IV(1), Chennai-600 034.

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

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

T.C.A.Nos.343 and 344 of 2013

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