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.355 of 2013

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

-vs-

Dr.A.Ramamoorthy,
1/143, Thiruchendur Road,
Virapandianpatanam,
Tuticorin District-628 216.
PAN: ABAPR9017P .. Respondent/Appellant

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 29.11.2012, on the file of the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.1721/Mds/2012 for the assessment year 2007-08 Against the order of the Commissioner of Income Tax I,Madurai dated 29.03.2012 C NO. 401/03/CIT I/2011-201 in the Assessment Year 2007-2008.

Against the order of the Deputy Commissioner Circle I,Tuticorin dated 31.12.2009 PAN/GIR NO. ABAPR9017P in the Assessment Year 2007-2008.

For Appellant : Ms.S.Premalatha,
Junior Standing Counsel
: For Mr.M.Swaminathan,
Senior Standing Counsel

For Respondent : Mr.N.Devanathan



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 29.11.2012, passed by the Income-tax Appellate Tribunal 'C' Bench, Chennai, in I.T.A.No.1721/Mds/2012 for the assessment year 2007-08.

2.The above appeal was admitted on the following substantial questions of law, vide order dated 26.08.2013:-

"(i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the order of the Assessing Officer is not erroneous and consequently the order of the Commissioner of Income Tax under Section 263 is without jurisdiction?

(ii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the dividend received by the assessee is not covered under Section 56(2)?

(iii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in deleting the expenditure to earn the dividend income under Section 14A of the Income Tax Act?

(iv) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in not holding that the entire transaction of gift to the assessee and subsequent sale of shares by the assessee was a colourable device adopted by the assessee as laid down in the Mc Dowell's case reported in 154 ITR 148 (Supreme Court)?"

3.Heard Ms.S.Premalatha, learned Junior Standing Counsel for Mr.M.Swaminathan, learned Senior Standing Counsel for the appellant and Mr.N.Devanathan, 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.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

abr
To

1.The Deputy Commissioner of Income-tax,
Circle-I, Tuticorin.

2.The Commissioner of Income Tax-I,
Madurai.

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

+1cc to Mr.Swaminathan, Advocate SR.No. 72339

T.C.A.No.355 of 2013

A.SK(02/12/2019)