IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

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

Tax Case Appeal No.836 of 2013

The Commissioner of Income-tax,
Chennai. .. Appellant

-vs-

Shri B.G.Parthasarathy,
No.3, Govindan Street,
Ayyavoo Naidu Colony,
Aminjikarai, Chennai-600 029. .. Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 30.09.2011, made in I.T.A.No.1061/Mds/2009 on the file of the Income Tax Appellate Tribunal Bench 'A', Chennai for the assessment year 2005-06, as against the order of the Commissioner of Income Tax (Appeals)-XII, Chennai-34 made in ITA No.426/07-08 dated 30/03/2010 as against the order of the Income Tax Officer Business Ward XIV(3) Chennai in Pan/GIR No.AJAPP0617M dated 28/12/2007 for the Assessment year 2005-2006.

For Appellant : Mr.M.Swaminathan, SSC
: assisted by Ms.V.Pushpa
Standing Counsel

For Respondent : Mr.A.S.Sriraman for Mr.S.Sridhar

JUDGMENT

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

This appeal filed by the Revenue under Section 260A of the Income-tax Act, 1961 is directed against the order dated 30.09.2011, made in I.T.A.No.1061/Mds/2009 on the file of the Income Tax Appellate Tribunal Bench 'A', Chennai for the assessment year 2005-06.

2.The appeal was admitted on 28.01.2014, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the onus was on the revenue to prove that the payments were made by the assessee for carriage or transportation of goods and not simply rent for hiring lorries?
>
> (ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that disallowance made by the AO u/s.40(a)(ia) was not proper?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel for the appellant - and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, 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-VIII)

//True copy//

Sub Assistant Registrar

abr

To

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

2. The Commissioner of Income Tax (Appeals)-XII,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-34

3. The Income Tax Officer,
Business Ward IV(3), Chennai.

+1cc to Mr.M.Swaminathan, Advocate SR.No.73015

+1cc to Mr.S.Sridhar, Advocate SR.No.72495

T.C.A.No.836 of 2013

SPD(CO)
GMY(15/11/2019)