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 Nos.949 and 950 of 2013

The Commissioner of Income-tax,
Chennai. .. Appellant in both Appeals

-vs-

M/s.Ceebros Hotels P. Ltd.,
No.19/1, 3rd Cross Street,
R.A.Puram, Chennai-600 028. .. Respondent in both Appeals

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 08.03.2013, made in I.T.A.Nos.2185 & 2276/Mds/2012 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2009-10. and against the Order dated 12.09.2012 made in ITA No.476/11-12/A.III passed by the Commissioner of Income Tax (Appeals)-III, Chennai and against the Order dated 16.12.2011 passed by the Assistant Commissioner of Income Tax, Company Circle-I (3) Chennai -34, for the Assessment Year 2009-10 made in GIR PAN AAACC3051 E.

For Appellant : Mr.T.Ravikumar, SSC

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

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

These appeals filed by the Revenue under Section 260A of the Income-tax Act, 1961 are directed against the common order dated 08.03.2013, made in I.T.A.Nos.2185 & 2276/Mds/2012 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2009-10.

2.The appeals were admitted on 10.02.2014, on the following substantial questions of law:-

"(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the disallowance made under the head “repairs and maintenance” are allowable?

(ii) Is not the finding of the Tribunal is proper especially when the assessee itself had stated that the repairs were in respect of restaurant carried out after three years from the commencement of its operation which would prove that the benefit was for longer period and therefore capital in nature and not revenue?

(iii) Whether the finding of the Tribunal is perverse especially when the CIT(A) had found after verifying the bills that new assets that have been created are of enduring nature and therefore capital? and

(iv) Whether the Tribunal was right in upholding the direction issued by CIT(A) that the disallowance made u/s.80 IA amounting to Rs.72,88,585/- is to be allowed?”

3.Heard Mr.T.Ravikumar, learned Senior 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 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.

abr

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

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

3. The Assistant Commissioner of
Income Tax,
Company Circle-I (3)
Chennai -34,

+1cc to Mr.T.Ravikumar, Advocate, SR.No.72375
+1cc to Mr.S.Sridhar, Advocate, SR.No.72496

T.C.A.Nos.949 and 950 of 2013

Kak(12/11/2019)