In the High Court of Judicature at Madras

Dated : 30.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.286 of 2019

The Commissioner of Income Tax,
Non Corporate Circle 13(1), Chennai-34 ...Appellant/Respondent

Vs

Mr.Durai Arun Kumar, Chennai-26. ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 04.1.2019 made in ITA.No.1033/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2013-14 against the order dated 31/01/2018 in ITA No.57/CIT(A)-14/2016-17 on the file of the Commissioner of Income Tax (Appeals)-14 Chennai-34 against the order dated 24/03/2016 vid PAN /GIR AAFPA2868M on the file of the Assistant Commissioner of Income Tax Non Corporate Circle 13(1), Chennai-600 034.

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

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel appearing for the appellant - Revenue.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 04.1.2019 made in ITA.No. 1033/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2013-14.

3. The Revenue has filed this appeal by raising the following substantial questions of law :

"i. Whether, on the facts and circumstances of the case and in law, the

Income Tax Appellate Tribunal was correct and justified in holding that the 85,000 shares were allotted on 22.8.2011 when the share certificates were issued only on 09.8.2012 ?

ii. Whether, on the facts and circumstances of the case and in law, the Income Tax Appellate Tribunal erred in ignoring the documentary evidence in the form of balance sheet filed before statutory authorities like ROC, IT Department etc., and to rely on an internal document of a private limited company of which the assessee holds 50% shares? And

iii. Whether, on the facts and circumstances of the case and in law, the Income Tax Appellate Tribunal was right and justified in holding that an internal document of a private limited company of which the assessee is the controlling person is more sacrosanct than statutory documents filed contemporaneously?”

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 raised 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.

Sd/-
Assistant Registrar(CS)

//True copy//

Sub Assistant Registrar

RS

To

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

2. The Commissioner of Income Tax, (Appeals) -14, Chennai-34

3. The Assistant Commissioner of Income Tax,
   Non Corporate Circle 13(1),
   Chennai-34

+1cc to Mr.M.Swaminathan, Advocate SR.No.75850

TCA.No.286 of 2019

NRL(CO)
GMY(16/10/2019)