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.145 of 2016

The Commissioner of Income Tax,
Corporate Circle-I, Madurai ...Appellant

Vs

Global Polybags Industries (P)
Ltd., Virudhunagar-1. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 28.8.2015 made in ITA.No.1596/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2009-10.

against the order of the Commissioner of Income Tax (Appeal) Madurai, dated 27/04/2015 ITA.No. 392/2011-12 PAN AABCQ 2203 K For the Assessment Year 2009-10, and against the Deputy Commissioner of Income Tax Circle - I, Railway feeder Road, Virudhunagar 626 001 dated 30.12.201 C.No. 44/Part 3/1-200/11-12 PAN.AABCG2203K for the Assessment Year 2009-10.

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

Respondent : Served and no appearance

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 28.8.2015 made in ITA.No. 1596/Mds/2015 on the file of the

Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2009-10.

3. The appeal was admitted on 23.2.2016 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 deleting the additions made under Section 2(22)(e) of the Income Tax Act, when the shareholders of the lending company has substantial interest in the borrowing company (assessee company)? and
>
> (ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct and justified and ignoring the provisions of Section 2(22)(e) of the Income Tax Act, which clearly provide that not only the payment by a private company by way of advance to a shareholder, but also payment made by lender to a private company (borrowing company), in which, shareholders are members, had substantial interest, is to be treated as deemed dividend under Section 2(22)(e)?"

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 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

To

1.The Commissioner of Income Tax(Appeals) I,
Madurai.

2.The Deputy Commissioner of Income Tax,
Virudhunagar.

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

+1cc to Mr.M.Swaminathan, Advocate, S.R.No. 75848

TCA.No.145 of 2016

AD(CO)
GN(13/11/2019)