IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM :

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

Tax Case Appeal No.140 of 2018

Commissioner of Income Tax,
Chennai. ...Appellant

Vs

Shri S.C.Sekar
PAN: AAEPC4430C ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 30.09.2016 made in ITA.No.2483/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2011-12 against the Order of the Commissioner of Income Tax (Appeals)-VI,Chennai -34, dated 26.06.2014 and pertains to Assessment Year 2010-11 against the order under section 143(3) of the I.T Act dated 21.03.13 passed by the Assistant Commissioner of Income Tax, Company Circle-VI (3) , Chennai.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani

For Respondent: Mr.N.Devanathan

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J.)

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel, assisted by Ms.K.G.Usharani, learned counsel appearing for the appellant/revenue and Mr.N.Devanathan, learned counsel appearing for the respondent/assessee.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 30.09.2016 made in ITA.No.2483/MDS/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2011-12.

3.This appeal was admitted on 03.04.2018 on the following substantial questions of law :

"1.Whether the Tribunal erred in law in allowing deduction under Section 54 of the Income Tax Act, 1961, which pertains to capital gains arising from the transfer of a long term capital asset being buildings or lands appurtenant thereto and being a residential house, the income of which is chargeable under the head 'Income from House Property', when sale was of a vacant land as per the sale deed, and the building had been demolished prior to the sale?

2.Whether the order under appeal is vitiated by the failure of the learned Tribunal to adjudicate the ground raised by the Revenue that the assessee had not made the investment within the mandatory prescribed period for claiming deduction of capital gains under Section 54 of the Income Tax Act, 1961?"

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. No costs.

cse

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

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

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

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

+1cc to Mr.T.R.Senthil Kumar, Advocate, SR.No.74180

TCA.No.140 of 2018

Kak(05/11/2019)