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 Nos.213 to 216 of 2016

The Commissioner of Income Tax, Coimbatore ...Appellant/Respondent

Vs

M/s.Sreevatsa Real Estates Pvt. Ltd., Coimbatore-43. ...Respondent/Appellant

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 29.5.2015 made in ITA.Nos.2250/Mds/2012, 2100/Mds/ 2014, 22/Mds/2013 and 2236/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench respectively for the assessment years 2009-10, 2010-11, 2009-10 and 2010-11 against the order of the Commissioner of Income Tax (Appeals)1, Coimbatore dated 06.05.2013 and 18.10.2012 in Appeal No.s 01/2012-2013 AX 2009-2010 and Appeal No. 297/2011-2012 for the Assessment year 2009-2010 against the order of the Additional Commissioner of Income Tax, Range I, Coimbatore dated 27.12.2011 in P.A.N. No. AADCS0177J for the assessment year 2009-2010 and 2010-2011.

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

COMMON 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 Standing Counsel appearing for the appellant - Revenue.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated 29.5.2015 made in ITA.Nos.2250/Mds/2012, 2100/Mds/2014, 22/Mds/2013 and 2236/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench respectively for the

assessment years 2009-10, 2010-11, 2009-10 and 2010-11.

3. The appeals were admitted on 20.4.2016 on the following substantial questions of law :

> "TCA.Nos.213 & 214 of 2016 :
>
> i. Whether the Appellate Tribunal was correct in holding that the assessee is eligible for deduction under Section 80IB on pro-rata basis in respect of composite project wherein some of the units had built up area exceeding 1,500 sq.ft., which is not provided under Section 80IB(10)(c) of the Income Tax Act? and
>
> ii. Whether the Appellate Tribunal was correct in overlooking the fact that the project also consists of 20 villas that do not conform to the provisions of Section 80IB(10)(c) and as such, the entire project is not eligible for deduction under Section 80IB of the Income Tax Act ?
>
> TCA.No.215 of 2016 :
>
> Whether the Appellate Tribunal was correct in holding that the assessee is eligible to claim the value of closing stock of the Thiruvanmiyur land at market price when the assessee valued the closing stock of all other lands at cost price ? And
>
> TCA.No.216 of 2016 :
>
> Whether the Appellate Tribunal was correct in setting aside the issue of claim of deduction of proportionate common expenditure to the Assessing Officer, when the same was originally considered by the Assessing Officer and also distinguished the judgment relied by the assessee while denying the claim ?"

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 08.8.2019 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 the respective cases 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 in the respective cases 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.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To
1.The Income Tax Appellate Tribunal, Chennai 'A' Bench.
2.The Commissioner of Income Tax
(appeals)I, Coimbatore
3.The Additional Commissioner of Income Tax
Range 1, Coimbatore
4.The Income Tax Officer
Company Ward 1
Coimbatore

+1 CC to Mr.T.R.Senthilkumar, Advocate sr 93714.

TCA.Nos.213 to 216 of 2016

SSD(CO)
SP(21/11/2019)