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.158 of 2018

Commissioner of Income Tax,
Chennai. ...Appellant

Vs

Shri.John Baptist Lasrado
PAN: AADPJ7078G ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 29.07.2016 made in ITA.No.1045/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2008-09 against the order under Section 143 (3) r/w Section 147 of the I.T.Act dated 25.03.2014 passed by the DCIT, Business Circle -III Chennai against PAN No.AADPJ7078G of the Deputy Commissioner Income Tax Circle III, Chennai-34 dated 25.03.2014.

For Appellant : Mr.T.Ravikumar, SSC
and Ms.R.Hemalatha, SSC

For Respondent: Mr.R.Sivaraman

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel, and Ms.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant/revenue and Mr.R.Sivaraman, 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 29.07.2016 made in ITA.No.1045/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2008-09.

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3.This appeal has been filed by raising the following substantial questions of law :

> "1.Whether on the facts and circumstances of the case, the order of the Income Tax Appellate Tribunal is erroneous in law and perverse on facts?
>
> 2.Whether on the facts and circumstances of the case, Tribunal is right in directing the assessing officer to consider the assessee claim for deduction u/s.54F without appreciating the admitted fact that the assessee was owning more than one residential house other than the new asset on the date of transfer and thereby violating the mandatory condition in the proviso (a)(i) to the Section 54F of the Act?
>
> 3.Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in directing the assessing officer to consider the assessee's claim for deduction u/s.54F without appreciating the fact that the construction was completed beyond 3 years from the date of transfer of assets?"

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.

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Sd/-
Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

cse

To

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

2.The Commissioner of Income tax (Appeals)-15
Nungambakkam, Chennai-34.

3. The Deputy Commissioner of Income Tax Circle III
Nungambakkam, Chennai-34

+1cc to Mr.T.Ravikumar, Advocate SR.No.74181

TCA.No.158 of 2018

RGN(CO)
GMY(01/11/2019)

HIGH COURT OF JUDICATURE MADRAS
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