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.351 of 2016

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

Vs

M/s.Rayalla Corporation Pvt.
Ltd., Chennai-41. ...Respondent/ Appellant
PAN :AABCR 7230 D

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 16.10.2015 made in ITA.No.908/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2011-12 against the order of the dated 04.02.15 and made in ITA.NO.1163/2013-14 on the file of the Commissioner of Income Tax Appeals III,chennai and against the order dated 03.03.2014 and made in PAN /GIR NO.AABCR 7230 D on the file of the Deputy commisioner of Income Tax,Company Circle V(3) chennai.

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

For Respondent:Mr.R.Venkatanarayanan for
M/s.Subbaraya Aiyer Padmanabhan

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.Ravikumar and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant - Revenue and Mr.R. Venkatanarayanan, 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 16.10.2015 made in ITA. No.908/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2011-12.

3. The appeal was admitted on 18.7.2016 on the following substantial questions of law :

> "i. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that income from letting out properties was business income and not income from house property ?
>
> ii. Whether the finding of the Tribunal is proper especially when the High Court in the assessee's own case for earlier years has decided the issue in favour of the Department by holding that income from letting out of property was assessable as income from house property ? and
>
> iii. Whether on the facts and circumstances of the case, the Tribunal was right in law in restricting the disallowance of expenses made under Section 14A to the extent of exempt income especially when the Assessing Officer had specifically invoked the provisions of Rule 8D?"

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.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To
THE INCOME TAX APPELLATE TRIBUNAL, CHENNAI 'B' BENCH.

2.THE COMMISSIONER OF INCOME TAX,CHENNAI
3. THE COMMISSIONER OF INCOME TAX APPEALS III,CHENNAI
4.THE DEPUTY COMMISIONER OF INCOME TAX,
COMPANY CIRCLE V(3) CHENNAI.

+1cc to M/s.Subbaraya Aiyer Padmanabhan, Advocate SR.No. 75932
+1cc to Mr.T.Ravikumar , Advocate SR.No. 75259

TCA.No.351 of 2016

A.SK(14/11/2019)