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.389 of 2016

The Commissioner of Income Tax, Virudhunagar Circle, Virudhunagar ...Appellant

Vs

M/s.M.U.A.Arumuga Perumal & Sons, Chatrapatti-626102. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 30.9.2015 made in ITA.No.1626/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10 against the Order of the Commissioner of Income Tax (Appeals)-3, Madurai, dated 30.04.2015 and made in ITA No.368/2011-12 for the Assessment Year 2009-10 against the Order of the Deputy Commissioner of Income Tax Company Circle-I (i/c), Virudhunagar, dated 21.12.2011 and made in PAN No.AABFM5325 M for the Assessment Year 2009-10.

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

For Respondent: Mr.A.S.Sriraman for Mr.S.Sridhar

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 and Mr.A.S.Sriraman, 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 30.9.2015 made in ITA.No. 1626/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10.

3. The appeal was admitted on 15.6.2016 on the following substantial question of law :

> "Whether, on the facts and circumstances of the case and in law, the Income Tax Appellate Tribunal was correct in deleting the addition made under Section 2(22)(e) of the Income Tax Act, which clearly provides that not only the payment by a private company by way of advance to shareholders, but also payment by lenders to borrowing firm, in which, shareholders having substantial shareholding in lending company and the partners of borrowed firm are common will attract 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 question of law framed is 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.

RS

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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

2. The Commissioner of
Income Tax (Appeals)-3,
Madurai,

3. The Deputy Commissioner of
Income Tax Company Circle-I (i/c),
Virudhunagar,

+1cc to Mr.M.Swaminathan, Advocate, SR.No.75845/19
+1cc to Mr.S.Sridhar, Advocate, SR.No.76094/19

TCA.No.389 of 2016

Kak(19/11/2019)