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.265 of 2018

Principal Commissioner of Income Tax
Central I, No.108, Mahatma Gandhi Road,
Chennai. ...Appellant

Vs

M/s.Orchid Healthcare Pvt. Ltd.,
No.1, 6th Floor, Crown Court,
34, Cathedral Road, Chennai - 600 034.
PAN: AAACO0399K ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 06.09.2017 made in ITA.No.1156/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2012-13, against the order of the Commissioner of Income Tax(Appeals)-3, Chennai-34 made in ITA.NO.40/2015-16/CIT(A)-3, dated 31.01.2017 and against the order of the Deputy Commissioner of Income Tax, Corporate Circle-5(1), Chennai made in PA/GIR.NO.AAACO0399K dated 13/03/2015 for the Assessment year 2012-13.

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

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.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 06.09.2017 made in ITA.No.1156/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2012-13.

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

> “1.Whether the ITAT is justified in holding that the disallowance u/s.14A read with Rule 8D of Income Tax Rules, has to be restricted only to the extent of exempted income earned by the assessee, by ignoring the fact that no such restriction was laid in Rule 8D?
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> 2.Whether ITAT is correct in placing reliance on the judgment of the Hon'ble Madras High Court in the case of Redington (India) Ltd., in favour of its conclusion that the disallowance u/s.14A read with Rule 8D of Income Tax Rules, has to be restricted only to the extent of exempted income earned by the assessee, whereas the Hon'ble High Court has not expressed any such opinion in the relied upon judgment?"

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 VI)

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner Of Income Tax(Appeals)-3,
Chennai-34.

3.The Deputy Commissioner of Income Tax,
Corporate Circle-5(1), Chennai-34.

+1cc to Mr.T.R.Senthilkumar, Advocate sr.74185

TCA.No.265 of 2018

cp(co)
nr 31/10/2019