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.596 & 597 of 2016

The Commissioner of Income Tax,
Company Circle III(2), Chennai-3 ...Appellant in both case

Vs

M/s.TNQ Books & Journals Pvt.Ltd.,
Chennai-41. ...Respondent in both case

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 20.1.2016 made in ITA.Nos.752 and 1368/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2010-11 against the order of the commissioner of Income Tax(Appeals)-II,Chennai-34 in ITA.No.1889/2013-14 dated 30/12/2014 against the order of the Assistant commissioner of Income Tax Company Circle-III(2), chennai-34 for the Assessment year 2010-2011 dated 28/03/2013.

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

COMMON JUDGMENT
(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.Rahul Unnikrishnan, learned counsel appearing for the respondent - assessee.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order

dated 20.1.2016 made in ITA.Nos.752 and 1368/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2010-11.

3. The appeals were admitted on 02.9.2016 on the following substantial questions of law :

> "TCA.No.596 of 2016 :
>
> i. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the interest on borrowed capital is allowable, as soon as the land was given for construction whereas the land was put to use for business only after completion of construction of building ? And
>
> ii. Whether, on the facts and circumstances of the case, the Tribunal was right in deleting the disallowance of interest on borrowed capital for purchase of land as per the provisions of Section 36(1)(iii)?
>
> TCA.No.597 of 2016 :
>
> Whether, on the facts and circumstances of the case, the Tribunal was right in allowing the depreciation at the rate of 60% treating it as purchase of computer software whereas the assessee has purchased only the right to use the software and hence, the rate of depreciation allowable is only 25%?"

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. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
1.The Income Tax Appellate Tribunal, Chennai 'B' Bench.

2.The Commissioner of Income tax (Appeals)-II Chennai-34

3.The Assistant Commissioner of Income Tax Company Circle-III(2) chennai-34

4.The Commissioner of Income Tax Company Circle III(2) chennai-34

+1 cc to Mr.M.Swaminathan Advocate sr75842

TCA.Nos.596 & 597 of 2016

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