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.820 OF 2016

The Commissioner of Income Tax, Chennai ...Appellant

Vs

Shri.K.A.Manshoor, Chennai-87 ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 31.5.2016 made in ITA.No.1412/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2009-10 against the order of the Commissioner of Income Tax (Appeals) IX, Chennai 34 dated 28.03.2013 and made in I.T.A. No. 303/2011-2012 and against the order of the Assistant Commissioner of Income Tax, Company Circle I(3) Chennai 34 dated 21.12.2011 for the assessment year 2009-2010.

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

For Respondent: Mr.R.Sivaraman

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. Sivaraman, learned counsel appearing for the respondent – assessee.

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2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 31.5.2016 made in ITA.No. 1412/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2009-10.

3. The appeal was admitted on 07.12.2016 on the following substantial questions of law :

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"i. Whether the Tribunal was right in holding that the provisions of Section 2(22)(e) were not attracted in respect of receipt of Rs.1.46 Crores by the assessee from company, in which, he has substantial interest and the company has sufficient accumulated profit also ?

ii. Whether the Tribunal was right and justified in holding that the provisions of Section 2(22)(e) are not attracted in respect of additional rental advances of Rs.45 lakhs received during the year from the company, in which, the assessee is the substantial shareholder and company is also having sufficient accumulated profits ? And

iii. Whether the Tribunal was correct in holding that income from agricultural land held as business assets by the assessee was in the nature of agricultural income without appreciating the fact that the income earned is incidental to the business activity of dealing in real estate business of the assessee?"

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.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

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

2.The Commissioner of Income Tax
(Appeals)IX, 121 Mahathma Gandhi Road
Chennai 34

3.The Assistant Commissioner of Income Tax
Company Circle I(3)
Chennai 34.

+1 CC to Mr.T.Ravikumar, Advocate sr 75264.

TCA.No.820 of 2016

MP(CO)
SP(04/12/2019)

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