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.883 of 2016

The Commissioner of Income Tax,
Business Ward XIII(3), Chennai. ...Appellant

Vs

Shri.G.Harikrishnan ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 22.7.2016 made in ITA.No.785/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2007-08, against the order of the Commissioner of the Income Tax(Appeals) -12, 121 Mahatma Gandhi Road, Chennai -34, dated 27/11/2014, ITA.No.1841/2013-14, PAN.AIXPG1990J for the Assessment year 2007-08, and against the Income Tax Officer, Business Ward No.XIII(3),Chennai, dated 29/03/2013 PAN.GIR.No.AIXPG1990J, for the Assessment year 2007-08.

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

For Respondent : Served and no appearance

JUDGEMENT

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.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 22.7.2016 made in ITA.No. 785/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2007-08.

3. The appeal was admitted on 11.1.2017 on the following substantial questions of law :

> "i. Whether, on the facts and circumstances of the case and in law, the Tribunal was right and justified in holding that profit on sale of land is not eligible for taxation under the head 'capital gains' although the land was sold within a short span of one year and the assessee did not do any agricultural operations on such land ? and
>
> ii. Whether, on the facts and circumstances of the case and in law, the Tribunal was right and justified in holding that the criteria to determine whether a land is agricultural or not is the classification in village records and not its actual use and whether such decision is contrary to the binding principle laid down by the Apex Court in CWT Vs. Officer in Charge (Court of Wards) [(1976) 105 ITR 133] and Sarifabibi Mohammed Ibrahim & Others Vs. CIT [204 ITR 631 (SC)]?"

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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax,
Chennai.

3.The Income Tax Officer,
Business Ward - XVII(3), Chennai.

+1 cc to M/s.M.Swaminathan,Advocate Sr.No. 75839

AKM/14.11.19/3P-5C /

TCA.No.883 of 2016