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.437 of 2018

The Commissioner of Income Tax,
Chennai. ...Appellant/Appellant

Vs.

M/s.Arun Excello Homes Pvt. Ltd.,
18, Bhattanad Towers, West Cott Road,
Royapettah, Chennai - 600 014.
PAN: AAGCA6559H ...Respondent/Respondent

Prayer: APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 06.12.2017 made in ITA.No.937/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2013-14and against the order of the Commissioner of Income Tax (Appeals) I, Chennai dated 10.02.2017 made in I.T.A. 27/CIT(A)-1/2016-2017, for the Assessment year 2013-2014 and against the order of the Deputy Commissioner of Income Tax Corporate Circle -1(1) Chennai dated 31.03.2016, made in GIR/PAN Ax-7250 AAGCA6559H for the Assessment year 2012-2013.

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

For Respondent: Mr.R.Sivaraman

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J.)

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel, and Ms.R.Hemalatha, learned Senior Standing 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 06.12.2017 made in ITA.No.937/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2013-14.

3.The appeal was admitted on 10.08.2018 on the following substantial questions of law :

> "1.Whether the payments made to non-resident company over and above the investments made partakes the character of interest receipt requiring Tax deduction under Section 195 of the I.T. Act and failure to deduct TDS would attract disallowance u/s.40(a)(i) of the I.T. Act?
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> 2.Whether the Tribunal was right in deleting the disallowance made u/s.40(a)(i) on the payments made to the non-resident company without deduction of tax at source, without appreciating the fact that the payment made to non-resident company is nothing but interest payment paid under the guise of discount on Optionally Convertible Debentures which are liable for Tax deduction under Section 195 of the I.T. Act?"

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(CS-I)

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)I, Chennai

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

TCA.No.437 of 2018

MR(CO)
SP(05/11/2019)