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.452 of 2018

Commissioner of Income Tax,
Non Corporate Circle, Chennai. ...Appellant

Vs

M/s.Arun Excello Homes Pvt. Ltd.,
18, Bhattad Towers, West Cott Road,
Royapettah, Chennai - 600 014.
PAN: AAUFA2577J ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 31.01.2018 made in ITA.No.2197/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2012-13 and against the Order dated 17.07.2017, made in ITA No.129/CIT(A)-13/2012-13 on the file of the Commissioner of Income Tax (Appeals)-13, Chennai and against the Order dated 02.12.2016, made u/s.143(3), r.w.s 263 of the Income Tax Act 1961 on the file of the Asst. Commissioner of Income Tax, Non Corporate Circle, Chennai.

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

For Respondent: No appearance

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

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel, and 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 31.01.2018 made in ITA.No.2197/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2012-13.

3.The appeal was admitted on 03.09.2018 on the following substantial question of law :

> "Whether the Tribunal was right in holding that the provision of Section 14A read with Rule 8D will have no applicability if there is no exempt income received/earned during the previous year, though the disallowance is linked to expenditure incurred on investment fetching exempt income?"

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 question of law framed is 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.

cse

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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

2. The Commissioner of Income Tax
(Appeals)-13, Chennai.

3. The Asst. Commissioner of
Income Tax, Non Corporate Circle II,
Chennai-6.

+1cc to Mr.M.Swaminathan, Advocate, SR.No. 74846/19

TCA.No.452 of 2018

Kak(04/11/2019)