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.564 of 2018
and C.M.P.No.11591 of 2018

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

Vs

M/s.Deloitte Haskins & Sells
ASV Ramana Towers,
No.52, Venkatanarayana Road,
T.Nagar, Chennai - 600 017.
PAN: AACFD3771D ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 25.11.2016 made in ITA.No.2079/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2011-12 against the order of the Commissioner of Income Tax (Appeals)2, Chennai dated 04.03.2016 for Assessment year 2011-2012 in I.T.A. No. 20/CIT(A)-2/2014-2015 against the order of the Assistant Commissioner of Income Tax Business Circle I, Chennai in PAN/GIR No. AACFD3771D for the Assessment year 2011-2012.

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

For Respondent: Mr.S.P.Chidambaram

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.S.P.Chidambaram, 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 25.11.2016 made in ITA.No.2079/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2011-12.

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3.The appeal was admitted on 27.08.2018 on the following substantial questions of law :

> "(i) Whether the Tribunal was right in holding that the payment of Rs.1,49,76,851/- made to the retiring partners, was on account of over-riding title and therefore allowable expenditure even when the payment made is self-imposed by the Assessee and therefore is only application of income?
>
> (ii) Whether the gratuitous payments made to the retiring partner is to be treated as revenue expenditure allowable under Section 37 of the I.T. Act, even if the same is not for the purpose of carrying its business?"

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. Consequently, connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar(CS-IV)

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Sub-Assistant Registrar

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To

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

2.The Commissioner of Income Tax (Appeals)2
Chennai

3. The Assistant Commissioner of Income Tax
Business Circle, Chennai

+1 CC to Mr.S.P.Chidambaram, Advocate sr 74235
+1 CC to Mr.T.Ravikumar, Advocate sr 73681.

TCA.No.564 of 2018

RGN(CO)
SP(07/11/2019)

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