IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.663 and 664 of 2018
and
C.M.P.No.13106 of 2018

Commissioner of Income Tax,
Non Corporate Circle -3, Madurai. .. Appellant/Respondent in both Appeals

-vs-

Shri A.M.Subramanian,
Old No.2/12, (New No.2/9/12),
Pillayar Street, Pulkattai Post,
Periyar Taluk, Madurai-625 703.
PAN: AHKPS3012K .. Respondent/Appellant in both Appeals

Prayer : Tax Case Appeals under Section 260A of the Income-tax Act, 1961, against the common order dated 05.03.2018, on the file of the Income-tax Appellate Tribunal 'A' Bench, Chennai in I.T.A.Nos.860/Chny/2017 and 1196/Chny/2017 for the assessment year 2013-14 and preferred against the order of the Commissioner of Income Tax(Appeals)-3, Madurai, dated 20.02.17, made in ITA No.0043/2016-17 for the assessment year 2013-14 and against the order of the Deputy Commissioner of Income-Tax, Non.Corporate Circle -3, Madurai, dated 31.03.2016, made in PAN/GIR Number AHKPS3012K for the assessment year 2013-14 (u/s.143(3) of the Income Tax Act 1961.

For Appellant : Ms.S.Premalatha,
(In both Appeals) Standing Counsel

For Respondent : Mr.R.Sivaraman
(In both appeals)

COMMON JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

These appeals by the Revenue, filed under Section 260A of the Income-tax Act, 1961, are directed against the common order dated 05.03.2018, passed by the Income-tax Appellate Tribunal 'A' Bench, Chennai in I.T.A.Nos.860/Chny/2017 and 1196/Chny/2017 for the assessment year 2013-14.

2.The Revenue has raised the following substantial questions of law for consideration:-

> “1. Whether the Income Tax Appellate Tribunal is right in law in allowing deduction u/s 54F for the entire value of the commercial building constructed which is contrary to the provisions of section 54F of the Income Tax Act in terms of which the deduction is allowable only for purchase or construction of a new residential house?
>
> 2. Whether the Income Tax Appellate Tribunal is right in law in directing the Assessing Officer to grant the benefit of deduction u/s 54F of the Income Tax Act without adjudicating on the grounds taken by the Revenue in respect of allowance of the deduction on the value of land?”

3.Heard Ms.S.Premalatha, learned Standing Counsel for the appellant/Revenue; and Mr.R.Sivaraman, learned counsel for the respondent/assessee.

4.In terms of the instruction given to the learned Standing Counsel for the appellant/Revenue, it is seen that the tax effect involved in the case is stated to be Rs.20,83,790/-. This is well below the threshold limit in terms of the recent circular issued by the Board in Circular No.3/2018, dated 11.07.2018. Therefore, the appeals are dismissed on the ground of low tax effect.

5.The learned counsel for the appellant submitted that in the event it is found that these appeals are not hit by the monetary limit of the circular, the Revenue should be permitted to restore these appeals.

6.The submission made by the learned counsel for the appellant is accepted and liberty is granted to the appellant to restore the appeals, in the event they found out that these appeals are not hit by the monetary limit in the circular. For such liberty, if applications are filed for restoration, the Registry is directed to list those applications along with the appeals without insisting upon any applications for condonation of delay or for such other matters. Consequently, the substantial questions of law are left open. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

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To

1.The Deputy Commissioner of Income-tax,
Non-Corporate Circle-3, Madurai.

2.The Commissioner of Income-tax (Appeals),
Madurai.

3.The Income-tax Appellate Tribunal 'A' Bench, Chennai.

+1cc to Mr.S.Premalatha, Advocate SR.No.55740

T.C.A.Nos.663 and 664 of 2018

MR(CO)
GMY(13/08/2019)