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.69 of 2018

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

Vs

M/s.Airplaza Retal Holdings Pvt. Ltd.,
4, Mookambika Complex, 5th Floor,
Lady Desika Road, Mylapore,
Chennai - 600 004.
PAN: AAICA7614B ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 01.05.2017 made in ITA.No.2227/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2011-12, against the order passed by the Commissioner of Income Tax(Appeals)-I, Chennai dt 29/4/16 in new ITA No.145/CIT(A)-1/2014-15 for the assessment year 2011-12 against the order dt 28/3/2014 passed by the Deputy Commissioner of Income Tax, Company Circle I(1) Chennai for the Assessment year 2011-12.

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 01.05.2017 made in ITA.No.2227/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'V' Bench for the assessment year 2011-12.

3.The appeal has been filed by raising the following substantial questions of law :

> "1.Whether depreciation on goodwill is to be allowed especially when the assessee has created goodwill artificially by revaluing the assets much after taking over of the Company which is afterthought and therefore not allowable?
>
> 2.Whether the assets which were revalued downward in the next assessment year was to create a difference which could be termed as goodwill?
>
> 3.Whether the treatment of revaluation of assets does not represent goodwill as it is only a capital loss arising out of slum sale and therefore not allowable expenditure?"

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.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax(Appeals)-1
Chennai.

3.The Deputy Commissioner of Income Tax,
Company Circle I(1), Chennai.

+1cc to Mr.T.Ravikumar, Advocate SR.73649

TCA.No.69 of 2018

SS(CO)
CB(06/11/2019)