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.710 and 711 of 2018
and
C.M.P.No.14859 of 2018

Commissioner of Income Tax,
Non Corporate Circle 10,
Chennai. .. Appellant/Respondent in both Appeals

-vs-

Raju Ganesan,
Plat No.4A, Pettucola Towers,
P.H.Road, Kilpauk, Chennai-600 010.
PAN: AACPG 8349 N .. Respondent/Appellant in both Appeals

Appeals under Section 260A of the Income-tax Act, 1961 against the common order dated 22.02.2018 on the file of the Income-tax Appellate Tribunal 'B' Bench, Chennai, in I.T.A.Nos.2258/Chny/2017 and 2313/Chny/2017 for the assessment year 2009-10.

Against the Common order dated 13/07/2017 on the file of the commissioner of Income Tax (Appeals) -12, in ITA.No. 131/CIT(A) -12/2015-16 and against the Common order dated 19/02/2016 on the file of the Deputy Commissioner of Income Tax, Non Corporate circle - 10, Chennai and against thee Common order dated 28/12/2011 on the file of the Assistant Commissioner of Income Tax Circle - XIII- Chennai-34 for Assessment year 2009-10- in PANAACPG8349N

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

For Respondent : Ms.E.Malini,
for M/s.Pass Associates

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

These appeals filed by the Revenue, under Section 260A of the Income-tax Act, 1961, are directed against the common order dated 22.02.2018 passed by the Income-tax Appellate Tribunal 'B'

Bench, Chennai, in I.T.A.Nos.2258/Chny/2017 and 2313/Chny/2017 for the assessment year 2009-10.

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

> "i. Whether the Tribunal was right and justified in holding that the assessment reopened is bad in law though the assessee has failed to disclose the material facts truly and correctly during the course of scrutiny assessment proceedings?
>
> ii. Whether the Tribunal was right and justified in allowing the deduction u/s 54F though the assessee has purchased a residential flat within a period of one year from the date of transfer of original asset apart from new residential house at Padur and hence the assessee has not complied with the proviso (a)(ii) of Sec.54F(1)?"

3.Heard Ms.S.Premalatha, learned Standing Counsel for the appellant/Revenue; and Ms.E.Malini, learned counsel for the respondent/Revenue, for M/s.Pass Associates.

4.The learned counsel appearing for the appellant/Revenue submits that the appeals are hit by low tax effect on account of the recent circular issued by the Board in Circular No.3/2018, dated 11.07.2018.

5.Recording the said submission, the appeals are dismissed on the ground of low tax effect.

6.Needless to state that if for any reason, it is found that the case is not covered by the circular, liberty is granted to the Revenue to seek for restoration of the appeals to be heard on merits and in such case, any application is filed before the Registry, the same should be listed before this Court along with the appeals without insisting for any petition for condonation of delay or for any other matters. Consequently, the substantial questions of law are left open. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Deputy Commissioner of Income-tax,
   Non Corporate Circle 10, Chennai.

2.The Commissioner of Income-tax (Appeals)-12,
   Room No.221, Wanaparthy Block, 2nd Floor,
   121, Mahatma Gandhi Road, Chennai-600 034.

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

4.The Assistant Commissioner of Income Tax,
  Circle – XIII,
  Chennai – 34.

+1cc to Mr.S.Premalatha, Advocate, S.R.No. 55741

T.C.A.No.710 and 711 of 2018

GN(17/10/2019)