IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

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

TAX CASE APPEAL NO.1011 OF 2014

Commissioner of Income Tax,
Coimbatore. .. Appellant/Appellant

-vs-

M/s.Vedanayagam Hospitals Pvt. Ltd.,
133, Bhasyakaralu Road, R.S.Puram,
Coimbatore-641 002. .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 07.03.2014, on the file of the Income-tax Appellate Tribunal 'A' Bench, Chennai, in I.T.A.No.1933/Mds/2013 for the assessment year 2010-11. against the order of the Income Tax (Appeals)-I Coimbatore in Appeal No.146/12-13 dated 06.08.2013 and against the order of the Deputy Commissioner of Income Tax, Company Circle 1(3), Coimbatore, in PAN.No.AAACV9940R, dated 31.01.2013 Assessment Year 2010-2011.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel

: assisted by Ms.K.G.Usharani,
Junior Standing Counsel

For Respondent : Ms.Sree Lakshmi Valli

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

This appeal filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, is directed against the order dated 07.03.2014, passed by the Income-tax Appellate Tribunal 'A' Bench, Chennai, in I.T.A.No.1933/Mds/2013 for the assessment year 2010-11.

2.The above appeal was admitted on the following substantial questions of law, vide order dated 09.12.2014:-

"(i) Whether under the facts and circumstances of the case the Income Tax Appellate Tribunal was right in law in holding that the assessee is entitled to deduction under Section 80IA without setting off the losses/unabsorbed depreciation pertaining to the windmill, which were set off in the earlier year against other business income of the assessee?

(ii) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that the initial assessment year in Section 80IA(5) would only mean the year of claim of deduction under Section 80 IA and not the year of commencement of eligible business?

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee has the option to choose the first/initial assessment year of claim for deduction under Section 80 IA?

(iv) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is eligible for deduction under Section 36(1)(v) in respect of payments made by it to the LIC, though the assessee did not establish that the fund has been approved by the Commissioner of Income Tax?

(v) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is eligible for deduction under Section 36(1)(v) since the same was allowed in the earlier assessment years, though it is well settled that the principles of res judicata does not apply in tax proceedings?"

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Junior Standing Counsel for the appellant and Ms.Sree Lakshmi Valli, learned counsel for the respondent.

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 08.08.2019 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(CS VI)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Deputy Commissioner of Income-tax,
   Company Circle-I(3), Coimbatore.

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

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

4. The Commissioner of Income Tax, Coimbatore.

+1cc to Ms.Sree Lakshmi Valli, Advocate, S.R.No.73052
+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.72916

T.C.A.No.1011 of 2014

PVS(CO)
CS/31/10/2019