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.192 of 2014

Commissioner of Income Tax,
Chennai. .. Appellant

-vs-

Shri Shri.M.Vishnudas,
85/15, Srirangam Avenue,
Pantheon Road, Egmore,
Chennai-600 008. .. Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 06.08.2013, made in I.T.A.No.581/Mds/2013 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2006-07 against the order of the Commissioner of Income Tax Appeals XI, dated 21.12.2012 and made in ITA.NO.260/2008-2009 and against the order of the Tax Officer Ward XIV(3), chennai dated 31.12.2008 and made in AACPV 3046 P for the Assessment Year 2006-2007.

For Appellant : Mr.Karthik Ranganathan,
Senior Standing Counsel
assisted by Mr.S.Rajesh,
Standing Counsel

For Respondent : No appearance

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JUDGMENT

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

This appeal filed by the Revenue under Section 260A of the Income-tax Act, 1961 is directed against the order dated 06.08.2013, made in I.T.A.No.581/Mds/2013 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2006-07.

2.The above appeal was admitted on 17.04.2014, on the following substantial questions of law:-

"(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is entitled for exemption of capital gains on the sale of the property at Poonamalee High Road and purchase of property at Pantheon Road.

(ii) Whether on the facts and in the circumstances of the case the Tribunal was right in holding that the property sold is a residential property for the purpose of Section 54 even though the said property was exploited as a guest house and assessee had returned the income from the same as business income and thereby holding that the assessee is entitled for exemption of capital gains on the sale of said property.

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee had purchased a single residential unit and clause ii of proviso to Section 54F cannot be applied to deny exemption of capital gains?

3.Heard Mr.Karthik Ranganathan, learned Senior Standing Counsel assisted by Mr.S.Rajesh, learned Standing Counsel for the appellant.

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 III)

//True Copy//

Sub Assistant Registrar

abr

To

1.THE INCOME TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI.

2.THE COMMISSIONER OF INCOME TAX APPEALS XI,
121, MAHATHMA GANDHI ROAD, NUNGAMBAKAM CHENNAI 34.

3. THE INCOME TAX OFFICER WARD XIV(3), CHENNAI 34

T.C.A.No.192 of 2014

A.SK(12/12/2019)