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.326 of 2014

The Commissioner of Income tax,
Chennai. .. Appellant

-vs-

M/s.R.R.Constructions,
No.1, Dorai Arasan Street,
Saligramam, Chennai-600 093. .. Respondent

Appeal under Section 260A of the Income-tax Act, 1961 against the order dated 03.10.2011, made in I.T.A.No.2061/Mds/2010 on the file of the Income Tax Appellate Tribunal Chennai 'C' Bench, Chennai for the assessment year 2007-08, as against the order of the commissioner of Income Tax (Appeals)-VIII, Chennai-34, made in ITA No.73/09-10 dated 17/9/2010 as against the order of the Additional Commissioner of Income Tax Business Range-III, Chennai-34 in PAN NO.AAAFR0752N dated 29/12/2009 for the Assessment year 2007-08.

For Appellant :Mr.T.Ravikumar,
Senior Standing Counsel

For Respondent :No appearance

******

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 03.10.2011, made in I.T.A.No.2061/Mds/2010 on the file of the Income Tax Appellate Tribunal Chennai 'C' Bench, Chennai for the assessment year 2007-08.

2.The above appeal was admitted on 22.08.2014, on the following substantial questions of law:-

"(i) Whether on the facts and in the circumstances of the case, the Income Tax

Appellate Tribunal was right in upholding the order of the CIT(A) that the deduction made under Section 80 IA is allowable even though the assessee had filed the return of income belatedly which condition is prohibited by Sec.80 AC?

(ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not considering the fact that the assessee firm cannot be considered as developer as stated in Sec. 80 IA (9) (4) (iv) merely because it was engaged in the business of infrastructure facilities especially when the assessee is not entered with the Central, State Government or other authority as laid down under Section 80 IA (4) (ib)?

(iii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not adjudicating the issue relating to excess claim made in computation relating to Sec. 80 IA which is contrary to the decision of the Madras High Court in the case of South India Surgical reported in 263 ITR 5?"

3.Heard Mr.T.Ravi Kumar, learned Senior 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

//True Copy//

Sub Assistant Registrar

abr

To

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

2.The Commissioner of Income Tax Appeals-VIII
121, Mahatma Gandhi Road, Chennai-34.

3.The Additional Commissioner of Income Tax
Business Range-III, Chennai-34

+1cc to Mr.T.Ravikumar, Advocate SR.72374

T.C.A.No.326 of 2014

SPD(CO)
CB(13/11/2019)