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.420 of 2014

Commissioner of Income Tax,
Chennai. ... Appellant/Respondent

-vs-

Koshu V.Mahtaney
86-E/2, Ambattur Industrial Estate,
Ambatture, Chennai-600 058. ... Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 23.01.2014, made in I.T.A.No.2305/Mds/2013 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2007-08, against the order dated 19/11/2003 made in ITA No.945 of 13-14 on the file of Commissioner of Income Tax (Appeal)-VII, Chennai-34 against the order dated 30/12/2009 for the PAN NO.AAFPM2483A on the file of Assistant Commissioner of Income Tax Circle XIII, Chennai-34.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel

: assisted by Ms.V.Pushpa,
Standing Counsel

For Respondent : Mr.R.Sivaraman

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 23.01.2014, made in I.T.A.No.2305/Mds/2013 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2007-08.

2.The appeal was admitted on 08.09.2014, on the following substantial questions of law:-

> "(i) Whether on and facts and in the circumstances of the case the Tribunal was right in holding that restriction of claim of exemption under Section 54EC to Rs.50 Lakhs does not apply to the assessee for the assessment year 2007-2008 when the explanatory notes explaining the insertion of proviso to Section 54EC (1) restricting the investment and exemption to Rs.50 Lakhs clearly mentions that the amendment is applicable for the assessment year 2007-2008 and such restriction is also contained in the notification No.380/2006, dated 22.12.2006?
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> (ii) Whether on and facts and in the circumstances of the case the Tribunal was right in holding that the assessee is entitled to exemption of capital gains of Rs.6.44 Crores for which the NHAI bonds were allotted and exemption cannot be restricted to Rs.50 Lakhs on the ground that the notification No.380/2006, dated 22.12.2006 restricting the investment to Rs.50 Lakhs did not mention that the amount already invested beyond Rs.50 Lakhs would not be eligible for exemption?
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> (iii) Whether on and facts and in the circumstances of the case the Tribunal was right in holding that the assessee is entitled to exemption of capital gains of Rs.6.44 Crores as per Explanation (b) and proviso to Section 54EC(3) inserted by Finance Act, 2007 with retrospective effect from 1.4.2006?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel for the appellant - and Mr.R.Sivaraman, 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 V)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax Appeals-VII, Chennai-34.

3.The Assistant Commissioner of Income Tax Circle-XIII, Chennai-34.

+1cc to Mr.M.Swaminathan, Advocate Sr.73020

T.C.A.No.420 of 2014

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srg 31/10/2019