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.585 of 2014

Commissioner of Income tax,
Chennai. ..Appellant/Appellant

-vs-

M/s.Mermaid Properties P Ltd.,
1-C, JVL Towers,
117, Nelson Manickam Road,
Chennai-600 029. ..Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 06.06.2011, made in I.T.A.No.1656(Mds)/2009 on the file of the Income Tax Appellate Tribunal Bench 'C', Chennai for the assessment year 2006-07, preferred against the order of the Commissioner of Income Tax (A), Chennai made in ITA.No.438/2008-09, dated 06.03.2009 filed against the order of the Assistant Commissioner of Income Tax Company Circle IV(2), Chennai -34, dated 29.12.2008 further Assessment year 2006-07.

For Appellant : Mr.Karthik Ranganathan,
Senior Standing Counsel
: assisted by Mr.S.Rajesh,
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 06.06.2011, made in I.T.A.No.1656(Mds)/2009 on the file of the Income Tax Appellate Tribunal Bench 'C', Chennai for the assessment year 2006-07.

2.The appeal was admitted on 23.09.2014, on the following substantial questions of law:-

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

> was right in upholding the order of the CIT(A) who held that the transfer of land amounted to capital gains and not as income from adventure in the nature of trade?
>
> (ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in not considering the fact that the transaction was an adventure in the nature of trade liable for tax under the head "income from business?"

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

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal Bench 'C', Chennai.
2.The Commissioner of Income Tax(Appeals),Chennai.
3.The Assistant Commissioner of Income Tax,
Company Circle IV (2), Chennai -34.

AKM/19.11.19/2P-4C / T.C.A.No.585 of 2014