IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

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

Tax Case Appeal Nos.589 and 590 of 2014

Commissioner of Income Tax,
Trichy. .. Appellant in both Appeals

-vs-

M/s.Vignesh Constructions,
No.100A, Gandhi Road,
Srirangam-620 006. .. Respondent in both Appeals

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 26.08.2011, made in I.T.A.Nos.496 & 497/Mds/2011 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment years 2007-08 and 2008-09 respectively as against the Common Order dated 10.08.2010 in ITA Nos.231 & 232/2009-10 by the Commissioner of Income Tax, (Appeals-), Trichy in G.I.No.PA No.AAFFV1091 D for the Assessment Year 2007-08 & 2008-09 respectively and as against the Order dated 24.12.2009 & 30.12.2009 passed by the Asst. Commissioner of Income Tax, Central Circle - I, Trichy in PA No./GIR No.AAFFV 1091 D for the Assessment Year 2007-08 and 2008-09 respectively.

For Appellant : Mr.M.Swaminathan,
(In both Appeals) Senior Standing Counsel

: Assisted by Ms.V.Pushpa
Standing Counsel

For Respondent : Mr.A.S.Sriraman
(In both Appeals) For Mr.S.Sridhar

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

These appeals filed by the Revenue under Section 260A of the Income-tax Act, 1961 are directed against the common order dated 26.08.2011, made in I.T.A.Nos.496 & 497/Mds/2011 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment years 2007-08 and 2008-09 respectively.

2.The appeals were admitted on 02.09.2014, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition of unexplained investment u/s 69 on the construction of school building made on the assessee by holding that the school building belonged to the trust and the trust alone would be entitled to explain the investment, even though admittedly the assessee firm herein had spent the monies towards the construction?
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> (ii) Whether on the facts and in the circumstances of the case, the Tribunal having given a finding that trust is only entitled to explain the investment in the construction of the school building, the tribunal was right in not giving direction to assess the unexplained investment in the cost of construction of the school in the hands of the trust?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel for the appellant - and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned counsel for the respondent.

4. The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 appeals are 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 appeals to be heard and decided on merits. No costs.

abr

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax,
(Appeals-), Trichy

3. The Asst. Commissioner of Income Tax,
Central Circle - I, Trichy

+1cc to Mr.M.Swaminathan, Advocate, SR.No.73021
+1cc to Mr.S.Sridhar, Advocate, SR.No.72499

T.C.A.Nos.589 and 590 of 2014

Kak(12/11/2019)