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 Nos.845 to 847 of 2014
and M.P.Nos.1 and 1 of 2014

Commissioner of Income Tax,
Chennai. .. Appellant in all Appeals

-vs-

Shri Aashish Gupta,
No.6-B, Calve Chateau,
No.808, Poonamallee High Road,
Kilpauk, Chennai-600 010 ..Respondent in T.C.A.Nos.845 & 846/2014

Shri Anuj Gupta ..Respondent in T.C.A.No. 847 of 2014.

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 02.08.2011, made in I.T.A.Nos.1897, 1898 & 1899/Mds/2010 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment years 2005-06, 2006-07 and 2005-06 respectively against the order of the Commissioner of Income Tax (Appeals) XII, Chennai 34 in I.T.A.No.314/2008-2009, I.T.A.No.315/2008-2009 dated 30.08.2010 and I.T.A.No.313/2008-2009 dated 30.08.2010 against the Assessment order of the (Income Tax Department) Assistant Commissioner of Income Tax Circle XIII, Chennai 34 dated 31.12.2008 for the Assessment year 2005-2006, 2006-2007.

For Appellant (In all Appeals) : Mr.M.Swaminathan, Senior Standing Counsel &
: Ms.V.Pushpa Standing Counsel

For Respondent (In all Appeals) : No appearance



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 02.08.2011, made in I.T.A.Nos.1897, 1898 & 1899/Mds/2010 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment years 2005-06, 2006-07 and 2005-06 respectively.

2.The above appeals were admitted on 01.12.2014, 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 had held the land as a business asset and therefore the gains out of sale of the land cannot be assessed to short term capital gains?
>
> (ii) Whether on the facts and in the circumstances of the case the Tribunal was right in holding that the provision of Section 50C cannot be invoked in the assessee's case since the assessee had held the land as a business asset and not as capital asset?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel and Ms.V.Pushpa, learned Standing Counsel for the appellant.

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.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

abr

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

2.The Commissioner of Income Tax
(Appeals)XII, Chennai 34.

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

+1 CC to Mr.M.Swaminathan, Advocate sr 73023.

T.C.A.Nos.845 to 847 of 2014

RK(CO)
SP(31/10/2019)