IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

CORAM

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

Tax Case Appeal No.201 of 2017

Principal Commissioner of Income Tax 4,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai. .. Appellant/Respondent

-vs-

M/s.Mangal Tech Park Pvt. Ltd.,
Spencer Plaza,
No.769, Anna Salai, Chennai-600 002.
PAN: AA3 CM 6101 F .. Respondent/Appellant

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 17.06.2016, on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai, in I.T.A.No.2084/Mds/2015 for the assessment year 2008-09 against the Appellate order passed by the Commissioner of Income Tax(A)-8, dated 16/09/2015 made in ITA.No.73/2014-15 and against the Appellate order passed by the Deputy Commissioner of Income Tax, Chennai, dated 31/03/2014 made in PAN.No.AAECM6101F, Assessment Year 2008-09.

For Appellant : Mr.Karthik Ranganathan,
Senior Standing Counsel
: assisted by Mr.S.Rajesh,
Standing Counsel

For Respondent : Mr.N.V.Balaji

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

This appeal by the appellant/Revenue filed under Section 260A of the Income-tax Act, 1961 is directed against the order dated 17.06.2016, passed by the Income Tax Appellate Tribunal 'A' Bench, Chennai, in I.T.A.No.2084/Mds/2015 for the assessment year 2008-09.

2.The above appeal was admitted, on 06.04.2017, on the following substantial questions of law:-

> *"(i) Whether in the facts and circumstances of the case and in law, Tribunal was correct and justified in deleting the penalty levied u/s 271*

(1)(c) holding that assessment and penalty proceedings are different and AO has not conducted any enquiry in the penalty proceedings when evidence on record show that sworn statement was recorded from all the three directors of the assessee on 18.03.2014 and enquiry reports in respect of the transactions were provided to them and whether such order of ITAT is perverse both on facts and in law?

(ii) Whether in the facts and circumstances of the case and in law, ITAT was right and justified in deleting the penalty levied u/s 271(1)(c) notwithstanding AO's stand that assessee made a bogus claim of deduction u/s 35AC on basis of fabricated documents, which could not be rebutted by the assessee and the ITAT also did not delete the addition on this account but only restored to AO for re-verification and further whether the order under reference has turned perverse both in law as well as on facts?"

3.Heard Mr.Karthik Ranganthan, learned Senior Standing Counsel assisted by Mr.S.Rajesh, learned Standing Counsel for the appellant - and Mr.N.V.Balaji, 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 'A' Bench,
Chennai.

2.The Commissioner of Income Tax (A)-8,
Nungambakkam, Chennai -34.

3.The Deputy Commissioner of Income Tax,
Company Circle IV(1), Chennai.

AKM/12.02.21 /3P-4C/

T.C.A.No.201 of 2017
29.08.2019