In the High Court of Judicature at Madras

Dated : 02.1.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice N.SATHISH KUMAR

Tax Case Appeal No.321 of 2017

The Commissioner of Income Tax, Chennai ...Appellant

Vs

A.Ameerdeen ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 04.5.2016 in ITA No.239/Mds/2016 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench for the assessment year 2010-11, against the order of the Commissioner of Income Tax(Appeals)-4, Chennai order dated 28/12/2015 made in ITA.NO.68/2014-15/A.Y.2010-11/CIT(A)-4 and against the order of the Income-Tax Officer, Business Ward-XU (1), Chennai made in PAN.NO.AFFPA9526B order dated 26/09/2014 for the Assessment year 2010-2011.

For Appellant : Mr.T.Ravikumar, SSC
For Respondent : Mr.S.Sridhar

Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned Standing Counsel for the appellant.

2. This appeal by the Revenue challenges the order passed by the Income Tax Appellate Tribunal, which decided the issue in favour of the assessee. The appeal was admitted on 04.7.2017 on the following substantial questions of law :

> "i. Whether the Tribunal erred in law in deleting the penalty levied under Section 271(1)(c) of the Income Tax Act, 1961 in the light of the explanation given by the assessee of money having been paid to the firm M/s.Alpha Commercials for purchase of property, which M/s.Alpha Commercials had not done, ignoring the material evidence/admission that the assessee was a partner of M/s.Alpha Commercials ? And

ii. Whether the Tribunal erred in law in ignoring the involvement of the assessee as partner in the affairs of M/s.Alpha Commercials, to which, money was given for purchase of property to claim benefit of Sections 54F/54B of the Act?”

3. The Revenue seeks to withdraw this appeal on account of low tax effect in terms of Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes.

4. In the light of the above, the appeal is dismissed as withdrawn and the substantial questions of law framed are left open.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 under exceptional clauses mentioned in the 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 VIII)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income-Tax(Appeals)-4,
Room NO.232, 2nd floor, Main Building,
121, Mahatma Gandhi Road, Chennai-34.

3.The Income-Tax Officer,
Business Ward XV(1), Room No.623-B,
6th floor, Wanapathy Block, Aayakar Bhavan,
121, Mahatma Gandhi Road, Chennai-600 034.

+1cc to Mr.T.Ravikumar, Advocate sr.no.402
+1cc to M/s.R.Hemalatha, Advocate sr.no.288
+1cc to M/s.S.Sridhar, Advocate sr.no.359

TCA.No.321 of 2017

cp(co)
nr 05/02/2019