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 Nos.397 to 399 of 2017

Principal Commissioner of Income Tax I,
No.63, Race Course Road,
Coimbatore-641 018. .. Appellant in all Appeals

-vs-

M/s.Kalpana Medical Center Private Ltd.,
4/5-C, Kalpana Complex,
Kavundampalayam, Mettupalayam,
Coimbatore-641 030.
PAN: AAC CK 7724 L .. Respondent in all Appeals

Appeals under Section 260A of the Income-tax Act, 1961, against the common order dated 09.11.2016, made in I.T.A.Nos.2847, 2848/Mds/2014 and 347/Mds/2015 respectively on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment years 2007-08, 2008-09 and 2009-10 respectively against the Order dated 10.09.2014 made in ITA No.210/13-14 and 209/13-14 for the Assessment Year 2007-08 and 2008- 09 and dated 16.01.2015 made In ITA No.208/13-14 for the Assessment Year 2009-10 respectively on the file of the Commissioner of Income Tax, (Appeals-I, Coimbatore against the assessment Order dated 04.03.2013 by the Assistant Commissioner of Income Tax Company Circle-IV (1), Coimbatore , against the PAN No.AACCK 7724L.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel

: assisted by Ms.K.G.Usharani,
Standing Counsel

For Respondent : Mr.N.V.Balaji

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

09.11.2016, made in I.T.A.Nos.2847, 2848/Mds/2014 and 347/Mds/2015 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment years 2007-08, 2008-09 and 2009-10 respectively.

2.The appeals have been admitted on 01.08.2017, on the following substantial questions of law:-

> "(i) Whether the sworn statement recorded from the assessee during the course of survey action under Section 133A of the Income Tax Act, 1961 can be the basis for making additions in the re-assessment proceedings in the light of Explanation 2 (b) appended to Section 147 of the Income Tax Act, 1961? and
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> (ii) Whether the Appellate Tribunal erred in law in holding that the re-opening of assessment for the Assessment years 2007-08 to 2009-10 were bad in law when the reason to believe that there was escapement of income chargeable to tax in the years in question was based on records found in the course of survey action under Section 133A of the Income Tax Act, 1961?"

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, 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 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

//True Copy//

Sub Assistant Registrar

To

1.The Principal Commissioner of Income Tax 1,
No.63 Race Course Road, Coimbatore -641 018.

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

3.The Commissioner of Income Tax, (Appeals-I),
Coimbatore

4. The Assistant Commissioner of Income Tax,
Company Circle-IV (1), Coimbatore

+1cc to Mr.N.V.Balaji, Advocate, SR.No.76081
+1cc to Mr.T.R.Senthil Kumar, Advocate, SR.No.75128

T.C.A.Nos.397 to 399 of 2017

Kak(11/11/2019)