In the High Court of Judicature at Madras

Dated : 28.08.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.758 of 2018

The Commissioner of Income Tax,
Chennai. ...Appellant

Vs

Smt.T.Kanniya Rani
PAN: AFMPK7216H ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 06.12.2017 made in ITA.No.3357/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2010-11 against the order of the Commissioner of Income Tax (Appeals)-2 Chennai-34 dated 30.09.2016 and made in ITA.67/CIT(A)-2/2015-2016 and against the order of the Commissioner of Income Tax dated 29.04.2013 and made in C.NO.47(4) 264/CIT IV/2013-2014.

For Appellant : Mr.T.Ravikumar, SSC
and Ms.R.Hemalatha, SSC
For Respondent: Mr.A.S.Sriraman for Mr.S.Sridhar

JUDGMENT

(Judgment was delivered by T.S.Sivagnanam,J.)

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel, and Ms.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant/revenue and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned counsel appearing for the respondent/assessee.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 06.12.2017 made in ITA.No.3357/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2010-11.

3.The appeal has been filed by raising the following substantial questions of law :

"1.Whether, the Tribunal was right in holding that the amended provisions of Section 50C(1) of the Income Tax Act which was applicable with effect from 01.04.2017 are applicable to the impugned transaction which took place in previous year relevant to the assessment year 2010-11 as per registered sale deed?

2.Whether the Tribunal was right in holding that the transaction has been taken place as per Section 2 (47)(v) of the I.T. Act read with Section 53A of the Transfer of Property Act especially when no evidence had been placed by the assessee with regard to the sale agreement or any contract entered indicating the transfer of property existed and a registered power of attorney was sufficient evidence for holding deeming transfer of the property as per Section 53A of the Transfer of Property Act?

3.Whether the Tribunal ought to have applied the judgment of the Hon'ble Supreme Court in the case of Suraj Lamp and Industries Ltd. vs. State of Haryana and another reported in 340 ITR page 1 wherein it had been held any contract of sale which was not a registered sale deed would fall short of requirements of the relevant provisions of law of Transfer of Property Act and could not confer any title and that the transfer of property by way of sale could be only through a sale deed and in the absence of deed of conveyance (duly stamped and registered as required by law) no right, title or interest in an immovable property could be transferred especially when in the present case no sale agreement had been entered between the land owners and the power of attorney holders?

4.Whether the Tribunal ought to have applied the decision of the Apex Court in the case of Shri Balbir Singh Maini in Civil APpeal No.15619 of 2017 (arising out SLP(Civil)NO.35248 of 2015 to the facts of the present case being similar in nature?"

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 08.8.2019 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.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To

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

2.The Commissioner of Income Tax
Chennai Iv 3rd floor New Block Aayekar Bhavan
121 Mahatma Gandhi Road Chennai-600034

3.The Commissioner of Income Tax(Appeals-2
121 M.G.Road Nungambakkam Chennai-34

+1 cc to Mr.S.Sridhar Advocate sr74497
+1 cc to Mr.T.Ravikumar Advocate sr73678

TCA.No.758 of 2018

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