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.885 of 2018

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

Vs

M/s.Poorvika Mobiles Pvt. Ltd.,
No.30, Arcot Road, Kodambakkam,
Chennai - 600 024.
PAN: AAECP9975G ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 12.06.2018 made in ITA.No.3097/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2013-14.

Against the order of the Commissioner of Income Tax(Appelas)-3 Room no.215, 2nd Floor Aayakar Bhavan, No.121, M.G.Road, Chennai-34 made in ITA No.123/16-17/A-3 dt 30/8/17 for the assessment year 2013-14, against the order of Deputy Commissioner of Income Tax, Corporate Circle 5(2) Room No.415, 4th Floor, Aayakar Bhavan, 121, Nungambakkam High Road, Chennai-34, made in AAECP9975G/2013-14 dt 26.9.16 for the Assessment year 2013-14.

For Appellant : Mr.T.Ravikumar, SSC
and Ms.R.Hemalatha, SSC

For Respondent : No appearance

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.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 12.06.2018 made in ITA.No.3097/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2013-14.

3.The appeal was admitted on 04.12.2018 on the following substantial question of law :

> "i.Whether the Tribunal was right in deleting the penalty levied under Section 271(1)(c) especially when the assessee had offered additional income by filing a revised return, which would have escaped taxation but for the survey action initiated by the Department? and
>
> ii.Whether the Tribunal ought to have applied the decision of the Apex Court in the case of Prasanna Dugar vs. CIT [reported in 70 Taxman.com page 175] wherein the judgment of the Kolkata High Court has been upheld, which had stated that even if the assessee voluntarily disclosed and paid tax subsequent to search action, penalty levied under Section 271(1)(c) was justified?"

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 question of law framed is 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(CCC)

//True Copy//
Sub Assistant Registrar

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To
1.The Commissioner of Income Tax, Chennai.

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

3.The Commissioner of Income Tax (Appeals)-3
Room No.215, 2nd Floor, Aayakar Bhavan,
No.121, M.G.Road, Chennai-34.

4.The Deputy Commissioner of Income Tax,
Corporate Circle 5(2), Room No.415,
4th Floor, Aayakar Bhavan, 121,
Nungambakkam High Road, Chennai-34.

5.The Assistant Registrar,
Income Tax Appellate Tribunal,
IIIrd Floor, Rajaji Bhavan,
Besant Nagar, Chennai-90.

+1cc to Mr.T.Ravikumar, Advocate SR.73655

SKV(CO)
CB(05/11/2019)