In the High Court of Judicature at Madras

Dated : 18.06.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Tax Case Appeal No.1173 of 2015

Principal Commissioner of Income Tax,
Central II,
No.108, Nungambakkam High Road,
Chennai-600 034. ...Appellant

-vs-

Shri.Padmasingh Isaac,
G-1174, Rose Residency,
15th Street, Belly Area,
Anna Nagar West, Chennai-600 040.
PAN: AID PP 3634L ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 29.05.2015 made in I.T.A.No.1266/Mds/2013 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2008-09 against the order dated 11/03/2013 and made in ITA.No.192/11-12 and 107/12-13 on the file of the Commissioner of Income Tax (Appeals)-I, Chennai preferred against the order dated 30/12/2011 and made in PAN.No.AIDPP 3634L on the file of the Assistant Commissioner of Income Tax, Central Circle II(3), Chennai.

For Appellant : Mr.T.R.Senthil Kumar, SSC
Ms.K.G.Usha Rani,
Standing Counsel

For Respondent: Served - No appearance

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

We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel and Ms.K.G.Usha Rani, learned 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 29.05.2015 made in I.T.A.No.1266/Mds/2013 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2008-09.

3. The appeal was admitted on 02.12.2015 on the following substantial questions of law:-

> "1. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in coming to a conclusion that the amount received by the assessee is not in the nature of loan or advances and therefore deleting the deemed income chargeable u/s.2(22)(e) of the Income Tax Act?
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> 2. Whether on the facts and circumstances of the case, the Appellate Tribunal is correct in not considering the second limb of section 2(22)(e) which brings to tax "any payment by any such company on behalf of or for the individual benefit, of any such shareholder, to the extent to which such company in either case possesses accumulated profits?
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> 3. Whether the Appellate Tribunal was right in not considering the circuitous route adopted by the assessee to receive the amount from the company, when the assessee had not furnished any evidence to disprove the factual findings of the Assessing Officer?"

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.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

abr
To

1.The Income Tax Appellate Tribunal
'C' Bench Chennai

2.The Principal Commissioner of Income Tax,
Central II, No.108, Nungambakkam High Road,
Chennai-600 034

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

4.The Assistant Commissioner of Income Tax,
Central Circle II(3)
Chennai.

TCA.No.1173 of 2015

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