IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2020

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Tax Case Appeal No.1198 of 2015

Commissioner of Income Tax,
No.63, Race Course Road,
Coimbatore. ...Appellant

Vs

M/s.Prasad and Company,
No.24, Gandhi Nagar 3rd Street,
Tirupur-641 603.
PAN: AAI FP 9785 H ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 19.06.2015 made in I.T.A.No.1353/Mds/2014 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2009-10 against the order of the Commissioner of Income Tax (Appeals II),Coimbatore dated 18.02.2014 for the assessment Year 2009-2010 in ITA.NO.283/11-12 and against the order fo the Income Tax Officer Ward (I)(4) Tirupur dated 30.12.2011 in PAN/GIR NO.AAI FP 9785 H.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel
assisted by Ms.K.G.Usha Rani,
Junior Standing Counsel

For Respondent: Mr.R.Sivaraman

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

We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usha Rani, learned Junior Standing Counsel appearing for the appellant-Revenue and Mr.R.Sivaraman, learned counsel 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 19.06.2015 made in I.T.A.No.1353/Mds/2014 on the file of the

Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2009-10.

3. The appeal was admitted on 21.12.2015 on the following substantial questions of law :

> "1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is correct in setting aside the claim of deduction under Section 80IB(10) of the Income Tax Act back to the assessing officer, when the assessing officer had considered the Construction Agreement entered by the assessee with the land owner which is purely a Works Contract and the same was confirmed by the CIT(Appeals)?
>
> 2. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in claiming deduction as per explanation to Section 80IB(10) inserted by the Finance Act, 2009 with effect from 1.4.2001?
>
> 3. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in not appreciating that the construction work was outsourced to a sub-contractor and therefore, the assessee is not entitled for deduction under section 80IB(10) of the Income Tax Act?"

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.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

abr

To

1.THE INCOME TAX APPELLATE TRIBUNAL 'D' BENCH, CHENNAI.

2.THE COMMISSIONER OF INCOME TAX (APPEALS II),COIMBATORE

3.THE INCOME TAX OFFICER WARD (I)(4) TIRUPUR.

4.THE ASSISTANT REGISTRAR,
INCOME TAX-APPELLATE TRIBUNAL,
SHASTRI BHAVAN,II ND FLOOR,
BESANNT NAGAR, CHENNAI-90.

TCA.No.1198 of 2015

A.SK(04/08/2020)