In the High Court of Judicature at Madras

Dated : 16.6.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Tax Case Appeal No.516 of 2015

The Commissioner of Income Tax, Chennai ...Appellant

Vs

Shri Sharad Vasanji ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 20.2.2015 made in ITA.No.2779/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2008-09. Appeal against the order dated 28-07-2014 in ITA.No.322/2013-14 on the file of the Commissioner of Income Tax(Appeals)-II, Chennai for the assessment year 2008-2009 and as against the order dated 25-03-2013 in PA No.ASBPS3634H on the file of the Deputy Commssioner of Income Tax, Business Range-VII, Chennai-34. For the assessment year 2008-2009.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani, SC

For Respondent: M/s.Pass Associates

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant - Revenue and learned counsel appearing for the respondent - assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 20.2.2015 made in ITA.No.2779/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench (for brevity, the Tribunal) for the assessment year 2008-09.

3. The appeal has been admitted on 20.1.2016 on the following substantial questions of law :

> "1. Whether, on the facts and circumstances of the case, the Tribunal was right in deleting the addition of Rs.43173805/- made towards long term capital gains holding that the lands were agricultural lands ?
>
> 2. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the lands were agricultural lands especially when the first certificate issued by the VAO clearly shows that no crops were grown on the said lands? and
>
> 3. Is not the finding of the Tribunal perverse by relying on chitta adangal extracts issued by the VAO subsequently without mentioning the period, which was different from the chitta adangal extracts obtained from the VAO by the Department at the assessment stage wherein it had been clearly stated that no crops were grown in the said lands ?"

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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax (Appeals)-II,
   Chennai.

3. The Deputy Commissioner of Income Tax,
   Business Range-VII, Chennai-34.

EV (CO)
RV (03/09/2020)