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 Nos.960 & 961 of 2015

The Commissioner of Income Tax,
Chennai ...Appellant

Vs

M/s.Baghmar Finance Ltd.,
New No.4, old No.49, Laxmi Nivas
Erulappan Street, Sowcarpet,
Chennai-600 079.
...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 23.8.2013 made respectively in ITA.Nos.1244 and 1257/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment years 2008-09 and 2009-10, respectively against the order dated 17.0.2013 made in ITA No.160 & 186/12-13 on the file of the Commissioner of Income Tax (Appeals)-VI, Chennai for the Assessment Year 2008-2009 and 2009-2010, and against the Assessment Order dated 07.12.2011 made in PAN/GIR No.AAACB3597Q on the file of the Assistant Commissioner of Income Tax, Company Circle 1(2), Chennai-34, for the Assessment year 2009-10, and against the Assessment Order dated 20.12.2010 made in PAN/GIR No.AAACB3597Q on the file of the Assistant Commissioner of Income Tax Company Circle -1(2), Chennai for the Assessment year 2008-2009.

For Appellant : Mr.T.Ravikumar, SSC &
Mrs.R.Hemalatha, SSC
For Respondent: Mr.A.S.Sriraman

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

We have heard Mr.T.Ravikumar and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant – Revenue and Mr.A.S. Sriraman, learned counsel appearing for the respondent – assessee.

2. These appeals, filed by the Revenue under Section 260A of

the Income Tax Act, 1961 (for brevity, the Act) are directed against the common order dated 23.8.2013 made respectively in ITA.Nos.1244 and 1257/Mds/ 2013 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench (for short, the Tribunal) for the assessment years 2008-09 and 2009-10.

3. The appeals were admitted on 24.11.2015 on the following substantial questions of law :

> "i. Whether, in the facts and circumstances of the case, the Tribunal was right in holding that the assessee company was the owner of the asset and entitled to depreciation of Rs.77,71,276/- and Rs.15,81,179 respectively ?
>
> ii. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the transfer of windmill to the assessee, by which, the assessee claimed ownership was a genuine transaction ? And
>
> iii. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the cost of one windmill had to be allocated on pro-rata basis out of total cost of Rs.81 Crores alleged incurred by M/s.Surana Industries Ltd.? "

4. The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 the respective cases is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeals are dismissed on account of the low tax effect. The substantial questions of law raised are left open. In the event the tax effect in the respective cases 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 appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

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

2.The commissioner of Income Tax(Appeals)VI,
Chennai.

3.The Assistant Commissioner of Income Tax
Company Circle 1(2)
Chennai-34.

TCA.Nos.960 & 961 of 2015

RLD(CO)
RMP(03/09/2020)

HIGH COURT OF JUDICATURE MADRAS
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