In the High Court of Judicature at Madras

Dated : 06.11.2020

Coram :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.990, 1007 & 1008 of 2019

Principal Commissioner of Income Tax
Central II, Chennai-34 ...Appellant in All Appeal

Vs

M/s.Jubilee Plot and Housing Pvt.
Ltd., Chennai-40 ...Respondent in All Appeal

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 24.12.2018 made respectively in ITA.Nos. 1447, 1452 and 1445/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment years 2010-11, 2015-16 and 2009-10 against the order dated 12/1/18 and made in ITA Nos.212,94, and 211 on the file of The Commissioner of Income Tax (Appeals)-18, Chennai-34 and against the order dated 31/3/16 and made in GI No./PA.No.AABCJ 3938 J on the file of The Assistant Commissioner of Income Tax Centre Circle 2(2)Chennai respectively.

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

For Respondent: Mr.M.Vivekanandan

COMMON JUDGMENT

(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 Mr.M.Vivekanandan, 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 24.12.2018 made respectively in ITA.Nos.1447, 1452 and 1445/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench (for short, the Tribunal) respectively for the assessment years 2010-11, 2015-16 and 2009-10.

3. The appeals were admitted on 17.12.2019 on the following substantial questions of law :

> "i) Whether on the facts and in the circumstances of the case, the ITAT was right in law in holding that the assessing officer cannot initiate proceedings under Section 153A of the I.T.Act, where there was no incriminating material found during the course of search operation u/s.132 of the Act?
>
> (ii) Whether the ITAT was correct in not taking cognizance of the Kerala High Court's decision in the case of CIT v. St.Francis Clay Decor Tiles (385 ITR 624) and the Karnataka High Court's decision in the case of Canara Housing Development Co. V. DCIT (49 taxmann.com 98)? and
>
> (iii) Whether the ITAT was correct in confirming the disallowance of land development expenses @ 24.35% of the said expenditure is not warranted, relying upon its earlier order in the assessee's own case for the assessment years 2007-08 and 2008-09, against which appeal has been preferred by the department ?"

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 framed 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)

// True Copy //

Sub Assistant Registrar

To

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

2 Principal Commissioner of
Income Tax, Central II, Chennai-34.

3 The Commissioner of Income Tax (Appeals)-18
Chennai-34.

4 The Assistant of Commissioner of
Income Tax Centre Circle 2(2), Chennai-34

+ 1 C.C. to MR.VIVEKANANDAN, Advocate SR.NO.36119

+ 1 C.C. to MR.VIVEKANANDAN, Advocate SR.NO.36120

+ 1 C.C. to MR.VIVEKANANDAN, Advocate SR.NO.36121

+ 1 C.C. to MR.T.R.SENTHIL KUMAR, Advocate SR.NO. 36103

TCA.Nos.990, 1007 & 1008 of 2019

RS [CO]
RR 19/12/2020