IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

TCA Nos.60 of 2016

Commissioner of Income Tax,
Chennai ... Appellant/Respondent

.vs.

M/s.Sundaram Clayton Ltd.
No.24 (Old No.8) Haddows Road,
Chennai 600 006 ... Respondent/Appellant

Prayer: TCA No.60/2016 filed against the order of the Income Tax Appellate Tribunal B Bench, Chennai dated 8.11.2004in ITA No.696/MDS/1996 against the order the Commissioner of Income Tax (Appeals)-VII, Madras dated 16.10.1997 made in IT Appeal No.45/96-97 and against the order of the Deputy Commissioner of Income Tax Special Range-II, Madras dated 14.03.1995 made in PAN/GIR No.10-S for the assessment year 1993-94.

For appellant : Mr.J.Narayanasamy,
Senior Standing counsel

For respondent : Mr.R.Venkatnarayanan,
for M/s.Subaraya Aiyar & Padmanabhan

ORDER
(Made by DR.VINEET KOTHARI, J.)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 3 July 2020, by Judges at their respective residence and the counsel, staff of the Court appearing from their respective residences.

2. This Tax Case Appeal has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal B Bench, Chennai dated 8.11.2004 in ITA No.696/MDS/1996, by raising the following substantial questions of law:

"Whether on the facts and circumstances

of the case, the Tribunal was right in holding that the transaction is not hit by the provision of Section 50, even though the assessee had clearly demarcated the depreciable assets sold during the year, as part of the sale of the undertaking and the transfer price was also fixed after taking into account the value of the depreciable assets and the immovable assets of the assessee company ?""

3. When the matter is taken up for hearing, learned Senior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

4. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

To

1. The Income Tax Appellate Tribunal "B" Bench, Chennai
2. The Commissioner of Income Tax (Appeals)-VII, Madras.
3. The Deputy Commissioner of Income Tax, Special Range-II, Madras.

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