IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

T.C.A.No.663 of 2016

Principal Commissioner of Income Tax
Central II, No. 108, Mahatma Gandhi Road,
Chennai ... Appellant

-Vs-

M/s. Aqua Granites
C/o. Kumari Kanagam, G-1, Sakthi Towers,
57/1, 8th Cross East Street,
Shenoy Nagar, Chennai 600 030.
PAN: AAF FA 6564 L ...Respondent

Prayer: Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras "B" Bench, dated 14.01.2016 in IT(SS) A.9/Mds/2015 preferred against the order of the Commissioner of Income Tax(A), Chennai, dated 30.12.2014, made in ITA.No.661/12-13, against the order of the Assistant Commissioner of Income Tax, Central Circle-II (4)(1/C), Chennai, dated 26.10.2012, made in PAN/GIR.No.AAFFA6564L.

For Appellant : Mr.T.R.Senthil Kumar, Senior Standing Counsel
For Respondent : Mr.M.P.Senthil Kumar

O R D E R

(Order of the Court was made by Dr.Vineet Kothari,J)

The Court was held by Video Conference as per the Resolution of the Full Court dated 03 July 2020, by Judges at the 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, Madras "B" Bench, dated 14.01.2016 in IT(SS) A.9/Mds/2015, by raising the following substantial questions of law:

"1. Whether on the facts and in the circumstances of the case, the order of the appellate Tribunal is not perverse for the assessment years 1995-96 and 1996-97 when there is no reason to deviate from the earlier stand taken by the Tribunal in the first round of appeal as the material facts have not changed?

> 2. Whether on the facts and in the circumstances of the case, the Appellate Tribunal is correct m law in allowing the unproved expenditure of Rs.35,44,711/- against unrecorded sales for the assessment year 1995-96?
>
> 3.Whether on the facts and in the circumstances of the case, the Appellate Tribunal is" correct in law in deleting the addition of Rs. 48,25,000/- made by the A.O towards estimated unrecorded sales for the Assessment year 1996-97 ?

3. When the matter is taken up for hearing, learned Standing Counsel brought to our notice the Circular 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 case. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1.Income Tax Appellate Tribunal
Madras "B" Bench, Chennai.

2.The Commissioner Of Income Tax(A)19,
Chennai.

3.The Assistant Commissioner Of Income Tax,
Central Circle-II(4),(i/c), Chennai.

+1cc to Mr.T.R.Senthil Kannan, Advocate in SR.27049

T.C.A.No.663 of 2016

SSV (CO)
RV (08/09/2020)