In the High Court of Judicature at Madras

Dated : 17.06.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Tax Case Appeal No.441 of 2014

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

Vs

Shri J.V.Chowdhury,
No.1, Palaniswamy Naidu Street,
Avanashi Road,
Coimbatore-641 018. ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 11.09.2013 made in I.T.A.No.1975/Mds/2011 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai, for the assessment year 2008-09 and against the order dated 28.09.2011 made in ITA No.153/10-11 on the file of the Commissioner of Income Tax(Appeals)-I, Coimbatore and against order dated 22/12/2010 passed by the Assistant Commissioner of Income-tax, Company Circle-1(1), Coimbatore, PAN.No./G.I.R.No.ABNPC1700F for the Assessment year 2008-2009.

For Appellant:Mr.T.R.Senthil Kumar,
Senior Standing Counsel
:assisted by
Ms.K.G.Usha Rani,
Junior Standing Counsel

Respondent :Mr.G.Baskar

Judgment was delivered by T.S.Sivagnanam,J

Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usha Rani, learned Junior Standing Counsel appearing for the appellant – Revenue and Mr.G.Baskar, learned counsel for the respondent – assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order order dated 11.09.2013 made in I.T.A.No.1975/Mds/2011 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai, for the assessment year 2008-09.

3. The appeal was admitted on 26.08.2014 on the following substantial questions of law :

> "1) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in holding that the sums received by the assessee to the extent of sale price of the shares transferred by it in the subsequent year cannot be taxed as deemed dividend in the year of receipt of advance?
>
> 2) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in holding that the sums received by the assessee is not a loan and, therefore, will not fall within the ambit of Section 2(22) (e) of the Act, though the section covers any payment in the nature of advance as well?"

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.

Sd/-
Asst.Registrar

/true copy/
Sub Asst. Registrar

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

2.The Commissioner of Income Tax (Appeals)-I
Coimbatore

3.The Assistant Commissioner of Income Tax,
Company Circle-1(1)
Coimbatore.

TCA.No.441 of 2014

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