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.446 of 2014

Commissioner of Income Tax,
Coimbatore. ...Appellant

Vs

Smt.D.Deivathal,
5/513, Kadiyur Kangayam,
Erode-638 701. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 28.05.2013 made in I.T.A.No.2045/Mds/2012 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment year 2009-10. Against the order dated 10/08/2012 made in Appeal No.257/11-12 on the file of the Commissioner of Income Tax (Appeals)-1 Coimbatore for the assessment year 2009-2010.

Against the order dated 16/12/2011 made in PAN No/GIR No.AGNPD9030C on the file of the Assistant Commissioner of Income Tax Circle-II, Erode for the assessment year 2009-2010.

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

Respondent : Mr.R.Sivaraman

Judgment was delivered by T.S.Sivagnanam,J.

We have 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.R.Sivaraman, 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 dated 28.05.2013 made in I.T.A.No.2045/Mds/2012 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment year 2009-10.

3. The appeal was admitted on 06.08.2014 on the following substantial questions of law :

> "1. Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in confirming the order of the Commissioner of Income Tax (Appeals) directing the assessing officer to delete the disallowance made under Section 40(a)(ia) towards the deduction of freight payment of Rs.54,23,303/-.
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> 2.Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee is not liable to deduct tax at source on the freight."

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. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

To

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

2.The Commissioner of Income Tax(Appeals)-1
Coimbatore

3.The Assistant Commissioner of Income Tax,
Circle-II Erode

aa25/08/2020