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.521 OF 2014

Commissioner of Income Tax,
Central Circle III, Chennai. ...Appellant/Appellant

Vs

M/s.Prashanth Overseas Supplies
House Private Limited,
New No.13 (Old No.8), 15th Avenue,
Harington Road, Chetpet,
Chennai-600 021.
PAN: AAACP1632L ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 27.02.2014 made in I.T.A.No.532/Mds/2013 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2007-08 against the order of the Commissioner of Income Tax(Appeals), II-Chennai, in ITA 137/11-12 dated 31.12.2012, against the order of Assistant Commissioner of Income Tax, Central Circle III(4) Chennai - 34 in PAN.GIR.NO.AAACP1632L dated 23.12.2011 Assesment Year 2007-08.

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

Respondent : Mr.G.Baskar
For Mr.N.Muthukumar

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.G.Baskar, learned counsel for Mr.N.Muthukumar, 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 27.02.2014 made in I.T.A.No.532/Mds/2013 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2007-08.

3. The appeal was admitted on 01.09.2014 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 upholding the order of the CIT(A) in deleting the addition made by the Assessing Authority towards long terms capital gain amounting to Rs.97,65,508/-?
>
> 2. Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was correct in holding that the Assessing Officer had made the addition under the head "capital gain" based on dumb document seized during the survey, ignoring the fact that the onus was on the assessee to prove that the value of the land should not be taken as per the draft assessment found and seized?
>
> 3.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in failing to note that the date of agreement of sale was 2.3.2007 and it is not possible that the value of the land is decreased drastically from Rs.1 Crore to Rs.35 lakhs within a short span of a fortnight?

4. Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal is correct in failing to note that any person of ordinary financial prudence would not accept less than half of the agreed price and enter into a fresh deal within a short span of a fortnight?"

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 question 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/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal 'B' Bench, Chennai.
2.The Commissioner of Income Tax(Appeals)II, Chennai.
3.The Assistant Commissioner of Income Tax, Central Circle III(4), Chennai 34.

TCA.No.521 of 2014

PVS(CO)
KKV/07/10/2020