In the High Court of Judicature at Madras

Dated : 18.06.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Tax Case Appeal No.577 of 2014

Commissioner of Income Tax,
Coimbatore. ...Appellant

-vs-

M/s.Sri Baba Theatres Pvt Ltd.,
No.36/52, Devanga High School Road,
R.S.Puram, Coimbatore. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 07.12.2012 made in I.T.A.No.478/Mds/2012 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2008-09, against the order of the office of the Commissioner of the Income Tax (Appeals)-1, Coimbatore PAN No.AAACB4551K, assessment year 2008-09, dated 26/12/2011.

Against the order of the Deputy Commissioner of Income Tax Company Circle -1(3),Coimbatore, PA No.AACS4551K, assessment year, 2008-09, order dated 30/02/2010.

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

For Respondent: Mr.R.Sivaraman

Judgment

(Judgment of the Court was delivered by T.S.Sivagnanam, J.)

We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel and Ms.K.G.Usha Rani, learned 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 07.12.2012, made in I.T.A.No.478/Mds/2012 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2008-09.

3. The appeal was admitted on 27.10.2014 on the following substantial questions of law:-

> "1. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that there is no income accrued from the purchase and sale of satellite rights through an irrevocable agreement for a period of 99 years?
>
> 2.Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the income from transfer of satellite rights does not arise in the year of transfer but in a later year only?
>
> 3.whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the accrual of income will take place only after the date of release, though there is actual purchase and sale of rights on which consideration was received?
>
> 4.Whether on the facts and in the circumstances of the case, the Tribunal was right in not holding that the income accrued in purchase and sale of satellite right in the year of transfer of right, when the assessee is following mercantile system of accounting?"

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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

abr

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

2.The income Tax (Appeals)-1, Coimbatore.

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

TCA.No.577 of 2014

PP(CO)
RMP(15/09/2020)