IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2020

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
&
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.435 of 2020

Principal Commissioner of Income Tax
Non-Corporate Ward 9(5),
Nungambakkam,
Chennai - 600034 ... Appellant/Respondent

Vs.

M/s Sudhir HUF ... Respondent/Appellant

Tax Case Appeal is filed under Section 260A of the Income Tax Act 1961 against the order dated 12.12.2019 made in I.T.A.No.3520/Chny/2018 on the file of the Income Tax Appellate Tribunal, Madras "A" Bench, for the assessment year 2015 - 2016.

This appeal preferred against the Commissioner of Income Tax (Appeals) 10 No.121, Mahatma Gandhi Road, Chennai 600 034 dated 31.10.2018 made in ITA.60/17-18/ CIT (A)-10 for the Assessment Year 2015-16 and preferred against the Income Tax Officer, Non Corporate Ward - (5), Chennai 34 dated 11.12.2017 made in PAN/GIR.No.AAUH56796M for the Assessment Year 2015-2016.

For Appellant : Mr.R.Karthik Ranganathan
For Respondent : Mr.A.S.Sriraman

J U D G M E N T

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

We have heard Mr.R.Karthik Ranganathan, learned counsel appearing for the appellant and Mr.A.S.Sriraman, learned counsel appearing for the respondent.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 12.12.2019 made in I.T.A.No.3520/Chny/2018 on the file of the Income Tax Appellate Tribunal, Madras "A" Bench, for the assessment year 2015 - 2016.

3. The Substantial Questions of Law raised for consideration in these appeals are as follows :

"1. Whether on the facts and circumstances of the case and in Law, the Hon'ble ITAT was right and justified in setting aside the order passed by the Assessing Officer to re-examine the matter when the Assessing officer has already duly examined the matter before passing the assessment order.

2. Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT was right and justified in not dismissing the appeal of the assessee as done by the ITAT 'A' Bench, Chennai in ITA No.827/Chny/2019 dated 11.06.2019 in the case of the ITAT 'A' Bench, Chennai in I.T.A.No.827/Chny/2019 dated 11.06.2019 in the case of Smt.Rekha Jain and by ITAT 'C" Bench, Chennai in ITA No.3009/Chny/2018 in the case of Harish Kumar HUF, when the facts and circumstances of those cases are exactly similar to the present case.

3. Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT was right and justified in remitting the issue back to the file of the Assessing Officer and shifting the onus to the Revenue with a direction that the Assessing officer shall bring on record the role of the assessee in promoting the company and the relationship of the assessee, if any with the promoters, role of the assessee in inflating the price of shares etc., "

4. The learned 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 is 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 (CS-VII)

//True Copy//

Sub Assistant Registrar

ssd

To

1.The Income Tax Appellate Tribunal,
"A" Bench, Chennai.

2.The Commissioner of Income Tax,
(Appeals) 10,
No. 121, Mahatma Gandhi Road,
Chennai 600 034.

3.The Income Tax Officer,
Non Corporate Ward 9 (5),
Chennai 34.

Tax Case Appeal No.435 of 2020

KJ(CO)
GN(01/02/2021)