IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2020

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TAX CASE APPEAL No.738 of 2019

(heard through video conferencing)

Principal Commissioner of Income
Tax-6, No.121, Nungambakkam
High Road, Chennai-34. ...Appellant/Respondent

Vs

M/s.Sunstar Hotel & Estates
Pvt. Ltd., Chennai-17. ...Respondent /Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 07.6.2019 made in ITA.No.3269/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2013-14 against the order passed by the Commissioner of Income Tax (Appeals) – 15, Chennai 34, dated 30.08.2018 made in ITA.No. 640/2016-17 /CIT (A)-15 and against the order passed by the Deputy Commissioner of Income Tax, Corporate Circle 6 (2), Chennai 34 dated 31.03.2016 made in PAN AALCS5478E.

For Appellant : Mr.J.Narayanasamy,SSC

For Respondent : Mr.Ashokpathy for
M/s.Pass Associates

Judgment was delivered by T.S.SIVAGNANAM,J

This appeal, by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act), is directed against the order dated 07.6.2019 made in ITA.No.3269/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2013-14.

2. We have heard Mr.J.Narayanasamy, learned Senior Standing Counsel appearing for the appellant – Revenue and Mr.Ashokpathy, learned counsel appearing for the respondent – assessee.

3. The appeal has been filed by the Revenue by raising the

following substantial questions of law :

> “1. Whether the Appellate Tribunal was right in holding that the expenses, which are not attributable to the business can be allowed as business expenses under Section 37 of the Income Tax Act ?
>
> 2. Whether, on the facts and circumstances and in law, the Appellate Tribunal was right in considering the income earned from financial services as business income when the main object of the company was hotel business and that business had not at all commenced by the assessee ? And
>
> 3. Whether the Appellate Tribunal was right in allowing the expenses under Section 37 of the Act, when the assessee altered the memorandum of association and removed hotel business as one of its main object with effect from 08.3.2016 and the same is not applicable to the present assessment year 2013-14 ?”

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 raised 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 file a petition to this Court to restore the appeal to be heard and decided on merits. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

To

1.The Income Tax Appellate Tribunal, Chennai ‘D’ Bench.

2.The Principal Commissioner of Income Tax -6,
No.121, Nungambakkam, High Road, Chennai 34.

3.The Income Tax (Appeals)-15,
Chennai – 34.

4.The Deputy Commissioner of Income Tax,
Corporate Circle 6 (2),
Chennai – 34.

T.C.A.No.738 of 2019

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