IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.7.2020

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TAX CASE APPEAL NO.594 OF 2017

The Commissioner of Income
Tax, Chennai ...Appellant/Appellant

Vs

Shri Erich Nassel Hauf, Chennai-96 ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 14.7.2016 made in ITA.No.280/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2012-13 against the order of the Commissioner of Income Tax(Appeals)-4, No.121, Mahatma Gandhi Road, Chennai 34 dated 30/11/2015 and made in ITA No.8/2015-16/2012-13/CIT(A)-4 against the order of the Income Tax officer, Non Corporate Ward 16(2) Room No 523C, Vth floor, Wanaparthy Building Aayakar Bhawan, No.121, Nungambakkam High Road, Chennai 34, dated 10.03.2015 and made in PAN No.AHMPN6872G.

For Appellant : Mrs.R.Hemalatha
For Respondent : Mr.Vikram Vijayaraghavan for M/s.Subbaraya Aiyer Padmanabhan

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant - Revenue and Mr.Vikram Vijayaraghavan, learned counsel appearing on behalf of M/s.Subbaraya Aiyer Padmanabhan, learned counsel on record 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 14.7.2016 made in ITA.No. 280/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2012-13.

3. The appeal has been admitted on 07.12.2017 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Tribunal was right in deleting the additions of Rs.89,02,180/- made under Section 69 of the Income Tax Act, 1961 ?
>
> ii. Is not the finding of the Tribunal bad by merely relying on the affidavit, which is a self serving document and cannot be acted upon especially when no proof or evidence was placed by the assessee to substantiate it ?
>
> iii. Whether, on the facts and in the circumstances of the case, the Tribunal was right in deleting the additions amounting to Rs.134,88,000/- on account of investments in house property without even going into particulars like full value of the investments, year of investments, etc., before deciding the issue?"

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(AD I)MDU

//True Copy//

Sub Assistant Registrar

RS

To

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

2.The Commissioner of Income Tax(Appeals)-4,
No.121, Mahatma Gandhi Road, Chennai-34.

3.The Income Tax Officer, Non Corporate Ward 16(2),
Room No.523C, Vth Floor Wanapathy Building, Aayakar Bhawan,
N0.121, Nungambakkam High Road, Chennai - 34.

4.The Commissioner of Income Tax, Chennai.

TCA.No.594 of 2017

PP(CO)
KKV/14/08/2020