In the High Court of Judicature at Madras

Dated : 16.6.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Tax Case Appeal No.850 of 2017

The Commissioner of Income
Tax, Chennai ...Appellant

Vs

M/s.Royal Splendours Developers
Pvt. Ltd.,
No.9, Ganapathy Colony
Guindy Industrial Estate
Guindy Chennai-600 032 ...Respondent

Prayer:APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 16.2.2017 made in ITA.No.768/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10 preferred against the order of the Commissioner of Income Tax(Appeals)-3, Chennai-34, dated 28.01.2016, made in ITA.No.22/2013-2014/A-3, against the order passed by the Assistant Commissioner of Income Tax Company Circle V(4) dated 28.03.2013, in PAN.No.AAECR0651B.

For Appellant: Mr.T.Ravikumar, SSC &
Mrs.R.Hemalatha, SSC
For Respondent: Not ready in notice

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.Ravikumar and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant - Revenue.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 16.2.2017 made in ITA.No.768/Mds/2016 on

the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench (for brevity, the Tribunal) for the assessment year 2009-10.

3. The appeal has been admitted on 20.2.2018 on the following substantial questions of law :

> "1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the reassessment proceeding is bad in law since the reason recorded for reopening of the assessment was not furnished to the Assessee before completion of the reassessment?
>
> 2. Is not the finding of the Tribunal bad by quashing the reassessment made by the AO especially when the facts remains that the assessee did not object to the non furnishing of the reasons during reassessment proceedings and had also participated in it?
>
> 3. Whether the reasoning and finding of the Tribunal is proper especially when the Hon'ble High Court of Madras in the case of Areava T & D Ltd - 294 ITR 233 has held that in a similar case that the action of the AO in completing the reassessment without disposing off the objections filed by the Assessee to the notice issued u/s.148 and non issuance of statutory notice u/s.143(2) was only a procedural lapse / irregularity which would not make the reassessment as nullity and the matter was to be remanded back to the AO for disposal afresh in accordance with law? and
>
> 4. Whether the Tribunal was right in quashing the reassessment order especially when the Administrative action is found to be suffering only from breach of principle of natural justice then the decision making process should be placed at a stage where the defect is detected rather than to permanently annul the action of the authority?"

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.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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

2.The Commissioner of Income Tax(Appeals)-3
Chennai-34

3.The Assistant Commissioner of Income Tax,
Company Circle-V(4) Chennai-34

TCA.No.850 of 2017

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