IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2020

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
&
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

T.C.A.No.862 of 2017

The Commissioner of Income Tax,
Chennai ...Appellant

Vs

Mr. N. Raghunath,
New No.19, Old No.9,
Judge Jambulingam Street,
Mylapore, Chennai 600 004.
PAN No: ACCPR4059E ...Respondent

Prayer: Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, dated 07.06.2017 in I.T.A.No.3223/Mds/2016. Appeal filed against the order of Income Tax Appellate Tribunal Madras 'A' Bench Chennai dated 07/06/2017 in ITA NO.3223/MAS/2016 in Assessment year 2011-2012 against the Commissioner of Income Tax(Appeals)2, in ITA NO.114,185,250/CIT(A)-2/2013-14 & 2014-2015 dated 19/09/2016 PAN NO.ACCPR4059E Assessement year 2010-11, 2011-12 & 2012-13 against Deputy Commissioner of Income Tax non-corporate circle-2, Chennai PAN NO.ACCPR4059E Assessment year 2012-2013 against the Joint Commissioner of Income Tax Business Range-1, Chennai PAN NO.ACCPR4059E, Assessment year 2011-2012.

For Appellant : Mr.T. Ravikumar
Sr. Standing counsel

For Respondent : Mr.R.Kumar

O R D E R

(Delivered by Dr.Vineet Kothari, J.)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 3 July 2020, by Judges at their respective residences and the counsel, staff of the Court appearing from their respective residences.

2. This Tax Case Appeal has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras "A' Bench by raising the following substantial questions of law:

> "(a) Whether the Tribunal was right in holding that the large sums of money incurred towards interior decoration, temporary wooden structure erected which give to a enduring benefit to the assessee are revenue expenditure and not capital?
>
> (b) Is not the finding of the Tribunal bad since the assessee in its books of accounts maintained had claimed only 10 % depreciation but for the purpose of income-tax had claimed 100% depreciation on temporary partition adopting differential treatment which is not correct?
>
> (c) Should not the Tribunal apply the principles laid down in the decision of the Apex Court in the case of CIT Vs Mangayargarsi reported in 315 ITR page 114 especially when huge expenditure were incurred by the Assessee on leased premises which has resulted in enduring benefit and therefore capital nature?

3. When the matter is taken up for hearing, learned Standing Counsel brought to our notice the Circular issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8 August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

4.In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

5.Registry is directed to send a copy of the judgment to the Respondent/ Assessee in the address given in the Appeal.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Copy to:

Mr.N.Raghunata, New no.19,
Old no.9, Judge Jambulingam Street,
Mylapore, Chennai-600004.

+1 cc to M/s.T.Ravi Kumar,Advocate Sr.No. 28053

To

1.The Appellete Tribunal Madras 'A'Bench
Chennai

2.The Commissioner Income Tax Appeals-2
No.121, MG Road, Nungambakkam, Chennai-600034.

3.Deputy Commissioner Of Income Tax,
Non Corporate circle-2, Chennai

4.The Joint Commissioner of Income Tax,
Business Range-II, Chennai

T.C.A.No.862 of 2017

VSN-II(CO)
RV(22/09/2020)