IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.9.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

TAX CASE (APPEAL) NO.873 OF 2017

Principal Commissioner of Income Tax,
No.121, Nungambakkam High Road
Chennai 600 034. .. Appellant/Respondent

Vs.

Legal Heir of Dr.B.Sivanthi Adityan,
6, E.V.K.Sampath Road,
Vepery, Chennai 600 007. .. Respondent/Appellant

Prayer:-

Tax Case (Appeal) filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'A' Bench, Chennai, dated 19.4.2017 made in ITA No.2545/Mds/2016 Assessment year 2007-2008 and

Against the order of the Commissioner of Income Tax (Appeals)-15, Chennai-34, dated 27.06.2016 made in I.T.A.No.161/CIT(A)-15/15-16 Assessment Year 2007-08 and against the order of the Deputy Commissioner of Income Tax, Corporate Circle 6(2), Chennai-34, order dated 30.03.2015 made in PAN.AAMPA7576R Assessment Year 2007-2008.

For Appellant : Mr.J.Narayanasamy
Senior Standing Counsel

JUDGMENT
(Delivered by DR.VINEET KOTHARI,J)

The Revenue has filed this Tax Case under Section 260-A of the Income Tax Act by raising the following purported substantial questions of law arising from the order passed by the Income Tax Appellate Tribunal on 19.4.2017, for the Assessment Year 2007-2008:-

"(i) Whether the Tribunal is justified in directing the Assessing Officer to follow the provisions contained in section 50C(2) of the Income Tax Act when provisions of section 50C are not applicable for the Asst. Year 2007-08 since the Joint Development Agreement as well as Power of Attorney were not registered and the word “assessable” was inserted in section 50C only w.e.f. 01.10.2009?

(ii) Whether on the facts and circumstances of the case and in law, ITAT was justified in directing the AO to apply provisions of sec.50C (2) when that provisions is applicable, where the assessee objects to the adoption of guideline value as per sec.50C(1), whereas in the case present case the assessee wants adoption of guideline value by applying sec.50C(1) and thus the decision of ITAT is contrary to the provisions of IT Act?

(iii) Whether on the facts and circumstances of the case and in law, ITAT was justified in not following the binding decision of Jurisdictional HC in CIT Vs R.Sugantha Ravindran (352 ITR 488) wherein it was held that provisions of section 50C are not applicable prior to 01.10.2009 under similar situation?

(iv) On the similar set facts of the case and in law, ITAT ought to have directed AO to adopt the cost of construction incurred by the Builder M/s.RMZ Infotech Pvt Ltd as full value of consideration by following the ratio laid down in CIT Vs National Cooperative Federation of India Ltd (Del) 221 Taxman (Mag) 157?"

2. The learned Senior Standing Counsel for the Appellant/Revenue Mr.J.Narayanasamy fairly submits that in pursuance of the remand order passed by the learned Tribunal on 19.4.2017 for the Assessment Year 2007-2008, vide para 8.1 of the impugned order, the present Appeal has been filed by the Revenue, the Assessing Authority has passed fresh orders on 17.10.2017 for the Assessment Year 2007-2008 and therefore, the present Appeal has become infructuous.

3. None has appeared on behalf of the Respondent/Assessee.

4. In view of the aforesaid submission of the learned Senior Standing Counsel appearing for the Appellant/Revenue, we dispose of the Appeal having been rendered infructuous, leaving the questions of law open and leaving it open to the Assessee to take his recourse against the order dated 17.10.2017 as permitted in law.

With this observation, the Appeal is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To

1. Income Tax Appellate Tribunal,
   'A' Bench, Chennai.

2. Principal Commissioner of Income Tax,
   No.121, Nungambakkam High Road
   Chennai 600 034.

3. The Deputy Commissioner of Income Tax,
   Corporate Circle, Chennai 600 034.

4. The Commissioner of Income Tax (Appeals)-15,
   Chennai-34.

T.C.(A)No.873 of 2017

NR(CO)
CS/10/11/2020