IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM :

THE HON'BLE MR.JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

T.C.A.No.1343 of 2010

Commissioner of Income Tax -LTU
Chennai. ...Appellant

Versus

M/s.Royal Sundaram Alliance
Insurance Company Ltd.,
21, Pattullos Road,
Chennai - 600 002. ...Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai, "D" Bench, dated 05.03.2010 in I.TA.No.847/Mds/2008 for the Assessment Year 2002-2003 against the order passed by the Deputy Commissioner of Income Tax Company Circle-V(4) i/c chennai in PAN No/GIN No.AABCR7106G/185R dated 29.03.2005 for the Assessment Year 2002-2003.

For Appellant : Mr.T.Ravikumar

For Respondent : Mr.R.Vijayaraghavan

J U D G M E N T
(Judgment was delivered by R.MAHADEVAN, J.)

This tax case appeal has been filed by the appellant / Revenue, challenging the order dated 05.03.2010 passed by the Income Tax Appellate Tribunal, Bench 'D', Chennai, in I.T.A.No.847/Mds/2008, relating to the assessment year 2002-03.

2.By order dated 15.02.2011, this court admitted the aforesaid tax case appeal on the following substantial question of law:

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was right in excluding the profit on sale of investments for purposes of Income Tax Assessment relying only on the omission of

Rule 5(b) of the First Schedule to the Income Tax Act w.e.f. 01.04.1989 without considering the other relevant legal provisions and without appreciating that there were no provisions under the statute to exclude such profits from the Profit and Loss Account submitted to the Controller of Insurance ?"

3.When the matter was taken up for consideration, the learned counsel for the appellant / Revenue brought to the notice of this court the Circular No.17/2019 dated 08.08.2019 issued by the Central Board Direct Taxes, wherein, it is stipulated that appeal 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). It is also submitted that the tax effect in this appeal is less than the threshold limit.

4.In the light of the aforesaid submissions made by the learned counsel for the appellant / Revenue, the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial question of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Income Tax - LTU,
   Chennai.

2. The Income Tax Appellate Tribunal,
   Chennai, “D” Bench.

3. The Deputy Commissioner of Income Tax Company Circle-V(4)
   i/c Chennai.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No.62135
+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No.62513

T.C.A.No.1343 of 2010

JPL(CO)
RGA(14/12/2021)