IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.02.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.No.391 of 2011

Commissioner of Income Tax - II,
Tiruchirapalli ... Appellant

Vs.

M/s.Raman & Raman Automobiles Ltd.,
48, Thiruvidaimarudur Road,
Kumbakonam. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "D" Bench, dated 30.03.2011 in I.TA.No.661/Mds/2010, Assessment Year 2006-07, against the order of the Commissioner of Income Tax(Appeals) in ITA.No.364/08-09 dated 01.02.2010 in G.I.No./PAN.No.AACCR7263F for the Assessment year 2006-07 against the proceedings of the Assistant Commissioner of Income Tax, Circle -I, Kumbakonam, dated 24.12.2008.

For Appellant : Ms.V.Pushpa
Standing Counsel

For Respondent : Mr.R.Sivaraman
for M/s.C.V.Rajan

JUDGMENT

(Judgment was delivered by M.DURAISWAMY, J.)

We have heard Ms.V.Pushpa, learned Standing Counsel for the appellant/Revenue and Mr.R.Sivaraman, learned counsel for the respondent/assessee.

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) are directed against the order dated 30.03.2011 made in I.TA.No.661/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai, "D" Bench (for brevity, the Tribunal) for the Assessment Years 2006-07.

3.The appeal was admitted on 28.09.2011 on the following substantial questions of law:

"1)Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessing officer was not justified in disallowing the additional remuneration paid to the directors as incentive payment to the tune of Rs.27,04,285/- even though such payments were not warranted in addition to the normal remuneration for performing the duties of the directors in contributing to the profitable operation of the company and without appreciation that in any case the liability had not accrued as on 31.03.2006 since the board of directors had ratified the payment only a the time of the annual general meeting in September 2006?

2)Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the expenditure incurred on partitions and false ceilings in the leasehold building could be revenue expenditure?

3)Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was justified in failing to take into consideration explanation 1 to Section 32 of the Income TaxAct, 1961 which covered such expenditure and treated them as "capital expenditure" on which depreciation was available?"

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 08.08.2019 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 these cases are less than the threshold limit.

5.In the light of the said submissions, the above Tax Case Appeal is dismissed as withdrawn on account of the Low Tax Effect. The substantial questions of law framed are left open. In the event the tax effect in these cases 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 (CS.VI)

/True Copy/

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal, Chennai, "D" Bench.

2.The Assistant Commissioner of Income Tax, Circle I, Kumbakonam.

3.The Commissioner of Income Tax(Appeals),
No.44, Williams Road, Cantonment,
Tiruchirappalli- 620 001.

AKM/17.03.21/3P-4C/

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