IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021
CORAM

THE HON'BLE MR.JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R.HEMALATHA

T.C.A.NO.475 OF 2013

The Commissioner of Income Tax,
Chennai. ... Appellant

Vs.

M/s.Sical Logistics Limited,
73, Armenain Street,
Chennai - 600 001. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "C" Bench, dated 05.10.2011 in I.TA.No.1628/Mds/2009, Assessment Year 2004-05.

As against the order dated 06.02.2009 by the Office of the Commissioner of Income Tax (Appeals)-V in I.T.A.No.701/2006-07 Assessment Year 2004-05 and as against the order dated 29.12.2006 by the Office of the Deputy Commissioner of Income Tax, Company Circle V(1), Assessment Year 2004-05.

For Appellant : Mr.J.Narayanaswamy
Senior Standing Counsel
For Respondent : Mr.M.Kaushik for Mr.S.Sridhar

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

We have heard Mr.J.Narayanaswamy, learned Senior Standing Counsel for the appellant/Revenue and Mr.M.Kaushik for Mr.S.Sridhar, 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) is directed against the order dated 05.10.2011 made in I.TA.No.1628/Mds/2009 on the file of the Income Tax Appellate Tribunal, Chennai, "C" Bench (for brevity, the Tribunal) for the Assessment Year 2004-05.

3.The appeal was admitted on 12.08.2013 on the following substantial questions of law:

"1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the original cost of purchase of ships should be allowed as a deduction as against the claim of the department that only depreciated value of the ship should be allowed as a deduction while computing the capital gains on the sale of ship in view of Explanation (5) of Section 32 which was introduced with effect from 01.04.2002?

2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that no depreciation should be deemed to have been allowed for the assessment year 2002-03 and 2003-04 for alleged non use of the ships when depreciation is to be allowed even on passive use?

3.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that Rule 8D is operative only from 01.04.2007?"

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 this case is 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 this case 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 III)

//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,
   Chennai.

3. The Commissioner of Income Tax (Appeals)V,
   Chennai.

4. The Deputy Commissioner of Income Tax Company Circle V(1),
   Chennai.

T.C.A.No.475 of 2013

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CS/23/06/2021