IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM

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

T.C.A.No.943 of 2013

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

Vs.

M/s.Mermaid Properties P Ltd.,
1-C, JVL Towers,
117, Nelson Manickam Road,
Chennai – 600 029. ... Respondent/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 23.01.2013 in I.TA.No.1897/Mds/2012, Assessment Year 2007-08, against the order passed by the Commissioner of Income Tax (Appeals)-V, Chennai-34 dated 03/07/2012 made in CIT(A)-V/ITA No.335/2011-12 and against the order passed by the Assistant Commissioner of Income Tax, Company Circle-IV(2), Chennai made in G.I.No.AAACM7840D, dated 29/12/2016.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel
and Mr.S.Rajesh
Standing Counsel

For Respondent : Mr.R.Sivaraman

JUDGMENT

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

We have heard Mr.Karthik Ranganathan, learned Senior Standing Counsel and Mr.S.Rajesh, 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) is directed against the order dated 23.01.2013 made in I.TA.No.1897/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai, "C" Bench (for brevity, the Tribunal) for the Assessment Year 2007-08.

3.The appeal was admitted on 14.02.2014 on the following substantial questions of law:

> "1.Whether on the facts and in the circumstances of the case, the Income Tax Tribunal was right in upholding the order of Commissioner of Income Tax (Appeals) who held that the transfer of land amounted to capital gains and not as income from adventure in the nature of trade?
>
> 2.Whether on the facts and in the circumstances of the case, the Tribunal was right in not considering the fact that the transaction was an adventure in the nature of trade liable for tax under the head 'income from business'?"

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, Chennai.

2.The Commissioner of Income Tax,
Chennai.

3.The Commissioner of Income Tax (Appeals)-V,
Chennai-34.

4.The Assistant Commissioner of Income Tax,
Company Circle-IV(2), Chennai.

T.C.A.No.943 of 2013

BS(CO)
srg 13/08/2021