IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2021

CORAM

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mr.Justice SATHI KUMAR SUKUMARA KURUP

T.C.A.Nos.962 & 963 of 2013
and
M.P.Nos.1 & 1 of 2013

The Commissioner of Income tax,
Chennai. .. Appellant in both Appeals

-vs-

M/s.Adyar Gate Hotels Ltd.,
132, TTK Road,
Chennai-600 018. .. Respondent in both Appeals

Prayer:-

Appeals under Section 260A of the Income Tax Act, 1961 against the order dated 31.07.2012 made in I.T.A.No.1694/Mds/2011 and I.T.A.No.1695/Mds/2011 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment years 2006-07 and 2008-09. Against the Appellate order Commissioner of Income tax,(Appeals)-III Chennai. Dated 27/07/2011 and made in ITA.Nos.259&260/2010-2011/A III for the Assessment years 2006-2007 and 2008-2009 and against the Assessment order of the Deputy Commissioner of Income tax, Company Circle I(1) Chennai.34 dated 16-12-2010 and made in PAN/G.I.R.No:AAACA9041 L/Ax1014 for the Assessment year 2006/2007 and 2008/2009.

For Appellant : Ms.R.Hemalatha,
(In both Appeals) Senior Standing Counsel

For Respondent : Mr.Vikram Vijayaraghavan
(In both Appeals)

COMMON JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

These appeals by the appellant/Revenue filed under Section

260A of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), are directed against the order dated 31.07.2012, made in I.T.A.No.1694/Mds/2011 and I.T.A.No.1695/Mds/2011 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai (for brevity "the Tribunal") for the assessment years 2006-07 and 2008-09.

2.The appeals were filed raising 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 rent received from building is to be treated as income from other source and not income from house property? And
>
> 2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that 2% of gross dividend earned alone could be treated as expenditure relatable to earning of exempted income u/s.14A read with Rule 8D and thereafter remitting the matter back to AO for working is not proper?"

3.Heard Ms.R.Hemalatha, learned Senior Standing Counsel for the appellant/Revenue and Mr.Vikaram Vijayaraghavan, learned counsel for the respondent/assessee.

4.We need not labour much to decide Substantial Question of Law No.1, as it has been decided by the Division Bench of this Court in the case of CIT vs. Chennai Properties and Investments Ltd., reported in (2005) 274 ITR 117 (Mad). The said decision was followed in CIT vs. Tidel Park Ltd. [T.C.A.Nos.732 and 733 of 2018 dated 07.07.2020], to which, one of us (TSSJ) was a party. Thus, by applying the aforementioned decisions, Substantial Question of Law No.1 is answered against the Revenue.

5.Insofar as Substantial Question of Law No.2 is concerned, we find that the Tribunal has only remanded the matter back to the Assessing Officer for considering afresh. Therefore, we find there is no substantial question of law as framed arising for consideration, insofar as Substantial Question of Law No.2 is concerned.

6.In the result, the appeals filed by the Revenue are dismissed and Substantial Question of Law No.1 is answered against the Revenue and Substantial Question of Law No.2 is left open, as we are affirming the order of remand passed by the Tribunal. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Income Tax Appellate Tribunal 'C' Bench,
   Chennai.

2. The Commissioner of Income tax,(Appeals)-III
   Chennai.

3. The Deputy Commissioner of Income tax,
   Company Circle I(1) Chennai.34

+1cc to Mr.T.Ravikumar, Advocate, S.R.No.37915
+1cc to M/s.Subbaray Aiyarpadnam, Advocate, S.R.No.37921

T.C.A.Nos.962 & 963 of 2013

PA(CO)
CT(26/08/2021)