IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2021

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Ms.Justice R.N.MANJULA

Tax Case Appeal No.257 of 2018

M/s.Sundaram Clayton Ltd,
No.29, Haddows Road,
Chennai - 600006. ...Appellant

Vs

The Additional Commissioner of
Income Tax,
Company Range-VI,
Chennai - 34. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 13.04.2016 made in ITA.No.1163/Mds/2013 on the file of the Income Tax Appellate Tribunal, 'B' Bench, Chennai for the assessment year 2009-10, appeal filed against the order dated 28/03/2013 made in ITA Nos.39 & 394/2011-12 on the file of the Commissioner of Income Tax (Appeals)-V, Chennai-34 for the Assessment Year 2009-10 against the order dated 30/12/2013 made in PAN No.AAACS4920J on the file of the Assistant Commissioner of Income Tax Company Circle-VI(4), Chennai for the Assessment Year 2009-10 against the Order dated 28/12/2011 made in PAN No.AAACS4920J on the file of the Additional Commissioner of Income Tax Company Circle VI, Chennai-34 for the Assessment Year 2009-10.

For Appellant:Mr.R.Vijayaraghavan assisted by
Mr.Vikram Vijayaraghavan
for M/s.Subbaraya Aiyar Padmanabhan

For Respondent:Mr.J.Narayanasamy
Senior Standing Counsel

JUDGMENT

(Delivered by T.S.Sivagnanam,J)

This appeal, filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) is directed against the order dated 13.04.2016 made in ITA.No.1163/Mds/2013 on the file of the Income Tax Appellate Tribunal, 'B' Bench, Chennai ('the Tribunal' for brevity) for the assessment year 2009-10.

2. The appeal was admitted on 06.06.2018 on the following substantial question of law:

> "Whether the Tribunal was right in law in confirming the disallowance of expenditure under Section 14A of the Income Tax Act, 1961 read with Rule 8D of the Income Tax Rules, 1962 without appreciating that the investments were made in earlier years out of sufficient profits and no part of borrowings were used for making investments?"

3. We have heard Mr.R.Vijayaraghavan, assisted by Mr.Vikram Vijayaraghavan, appearing for M/s.Subbaraya Aiyar Padmanabhan, learned counsel for the appellant and Mr.J.Narayanasamy, learned Senior Standing Counsel appearing for the respondent-Revenue

4. After elaborately considering the factual position and the substantial question, which is being framed for consideration, we have no hesitation to hold that the question needs to be answered in favour of the assessee in the light of the decision of the Hon'ble Division Bench in the case of M/s.Marg Limited vs. CIT, Chennai in T.C.A.Nos.41 to 43 and 220 of 2017 dated 30.09.2020 and the other decisions rendered by this Court following the said decision, one such decision being in the case of The Commissioner of Income Tax, Chennai vs. M/s.Shriram Ownership Trust in T.C.A.No.242 of 2018, wherein in paragraph 39, this issue was considered and decided in favour of the assessee, which portion of the judgment is extracted hereunder:

> "39. The first substantial question of law raised by the revenue in this appeal is whether the Tribunal was right in holding that the investment which yielded no exempt income was to be excluded while computing deduction under Section 14A when the Act as well as the Rules do not provide for any such exception. An identical question was raised by the revenue in the assessee's own case in T.C.A.No.241 of 2018 for the assessment year 2013-14. When the said tax case appeal was heard, we noted that the substantial question of law has to be answered in favour of the assessee in the light of the decision of the Hon'ble Division Bench in the case of M/s.Marg Limited vs. CIT, Chennai

[T.C.A.Nos.41 to 43 and 220 of 2017 dated 30.09.2020]. However, the appeal filed by the revenue was dismissed on 08.07.2020 owing to low tax effect. The revenue cannot dispute the fact that the above substantial question of law was decided in favour of the assessee. In the case of M/s.Marg Limited, in which the decision of the High Court of Karnataka in Pragathi Krishna Gramin Bank vs. Vireet Investment (P) Ltd. [(2017) 82 Taxman.com 415 (Delhi-Trib.)(SBI)] also decided the said issue in favour of the assessee. Thus, following the above referred decision, substantial question of law No.1 is answered in favour of the assessee and against the revenue."

5. In the absence of any distinguishing factors in the case on hand, we are obliged to follow the decision of M/s.Marg Limited, which has been consistently followed in several other decisions as well.

6. In the result, the Tax Case Appeal is allowed and the substantial question of law framed for consideration is answered in favour of the appellant-assessee. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Additional Commissioner of Income Tax,
Company Range-VI,
Chennai - 34.

3.The Commissioner of Income Tax (Appeal)-V,
Chenani-34.

+1cc to M/s.Subbaraya Aiyar, Advocate Sr.6006

TCA.No.257 of 2018

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