IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2021

CORAM

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

T.C.A.No.109 of 2014

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

Vs.

Late Shri.A.R.Krishnamurthy,
L/R.Shri A.K.Ramkumar,
AH 93, 8th Main Road, Anna Nagar,
Chennai – 600 040. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "C" Bench, Chennai dated 24.02.2012 in I.T.A.No.496/Mds/2010, Assessment Year 2002-03, preferred against the order passed by the Commissioner of Income Tax, Chennai-X, Chennai dated 31.03.2010 made in C.No.10113/8/CIT-X/2009-10 preferred against the order passed by the Assistant Commissioner of Income Tax, Circle XIII, Chennai-34 dated 07.12.2010 for the assessment year 2002-03.

For Appellant : Mr.S.Rajesh
Standing Counsel

For Respondent : Mr.V.S.Jayakumar
for Mr.M.V.Swaroop

JUDGMENT

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

We have heard Mr.S.Rajesh, learned Standing Counsel for the appellant/Revenue and Mr.V.S.Jayakumar for Mr.M.V.Swaroop, 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 24.02.2012 made in I.T.A.No.496/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai, "C" Bench (for brevity, the Tribunal) for the Assessment Year 2002-03.

3.The appeal was admitted on 16.07.2014 on the following substantial questions of law:

> "1)Whether on the facts and circumstances of the case, the Tribunal was right in quashing the order passed u/s.263 holding that the same was passed only on the basis of difference of opinion.
>
> 2.Whether the amount of Rs.1,00,00,000/- (Rupees One Crore only) received by the assessee pursuant to non-competition agreement entered into by the assessee with CABL is to be treated as capital receipt and not revenue receipt is contrary to law."

4.The learned 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 IV)

//True Copy//

Sub Assistant Registrar

MKN

To

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

2. The Commissioner of Income Tax,
   Chennai.

3. The Assistant Commissioner of Income Tax,
   Circle-XIII, Chennai-34

4. The Commissioner of Income Tax,
   Chennai-X, Chennai.

T.C.A.No.109 of 2014

PM(CO)
TE (16/04/2021)