IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2021

CORAM

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

T.C.A.No.254 of 2014

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

Vs

M/s.Apollo Hospital Enterprises Ltd.
“Ali Towers” IV Floor,
55, Greams Road,
Chennai – 600 006. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, “D” Bench, dated 29.03.2012 in I.TA.No.1571/Mds/2010, Assessment Year 1997-98. Against the order dated.28/06/2010 made in ITA No.587/09-10/A.III on the file of the Commissioner of Income Tax (Appeals)-III, Chennai as against the order dated.23/12/2009 made in PA/GIR No.AAACA5443N/AXI-015 on the file of the Deputy Commissioner of Income Tax Company Circle-1(1), Chennai for the assessment year 1997-98.

For Appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel
and Mrs.K.G.Usha Rani
Standing Counsel

For Respondent : Mr.N.V.Balaji

JUDGMENT

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

We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel and Mrs.K.G.Usha Rani, learned Standing Counsel for the appellant/Revenue and Mr.N.V.Balaji, 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 29.03.2012 made in I.TA.No.1571/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai, “D” Bench (for brevity, the Tribunal) for the Assessment Year 1997-98.

3.The appeal was admitted on 25.08.2014 on the following substantial questions of law:

> "1.Whether in and facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is entitled to deduction of lease equalisation charges in addition to the depreciation already claimed by it?
>
> 2.Whether in and facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is entitled to deduction of lease equalisation charges even though it is not a non banking finance company?"

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

//True Copy//

Sub Assistant Registrar

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To

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

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

3.The Deputy Commissioner of Income Tax,
Company Circle-1(1), Chennai.

+1cc to Mr.N.V.Balaji, Advocate, S.R.No.29579

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.29901

RSV(CO)
GN(23/07/2021)