IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

AND

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

T.C.A.Nos.337 & 338 of 2014

Commissioner of Income Tax,
Chennai .. Appellant in both appeals

Versus

M/s. Sterling Estates & Properties Ltd.,
124 Sterling Point,
GN Chetty Road,
T.Nagar, Chennai-17 .. Respondent in both appeals

Tax Case Appeals filed under Section 260 A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 14.08.2013 in I.T.A.Nos.316, 336/Mds/2013.

For Appellant in both appeals : Mr. J. Narayanaswamy,
Standing Counsel

For Respondent in both appeals : Mr.B. Ramanakumar

COMMON JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

These Tax Case Appeals have been filed by the appellant / revenue, questioning the correctness of the common order dated 14.08.2013 passed by the Income Tax Appellate Tribunal Madras 'C' Bench, in I.T.A.Nos.316 & 336/Mds/2013, relating to the assessment years 2004-05 and 2005-06.

2. On 30.07.2014, these tax case appeals were admitted by this Court on 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 assessee is eligible for deduction under Section 80IB(10) since the substitution of Section 80IB(10) including clause(d) by Finance (No.2) Act, 2004 was with effect from 1.4.2005 and any project approved by the local authority prior to that date was outside purview of the restriction imposed under clause (d)?*

2. Whether on facts and circumstances of the case, the Tribunal was right in holding that the assessee is eligible for deduction under Section 80IB(10), though the commercial space in the housing project of the assessee was more than the restriction placed under clause (d), since the project was approved by local authority before restriction placed under (d) was enacted?"

3. When the matters were taken up for consideration, the learned counsel for the appellant / Revenue brought to the notice of this court the Circular No.17/2019 dated 08.08.2019 issued by the Central Board Direct Taxes, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore). It is also submitted that the tax effect in these appeals are less than the threshold limit.

4. In the light of the aforesaid submissions made by the learned counsel for the appellant / Revenue, the present appeals, wherein, the tax effect is said to be less than the monetary limit imposed, are dismissed as

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withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

[R.M.D,J.]　　[M.S.Q., J.]
11.07.2022

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Index : Yes / No

To
The Income Tax Appellate Tribunal,

Madras 'C' Bench, Chennai,

T.C.A.Nos.337 & 338 of 2014