IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.257 of 2024

Deputy Commissioner of Income Tax
Company Circle -II(4) Chennai 600034. .... Appellant

Vs.

M/s.Kugel Developers Pvt Ltd
Times Partner. No.58, Perambur Barracks
Road, Vepery, Chennai 600 007. .... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench Chennai, dated 28.10.2022 made in I.T.A.No.348/Chny/2019.

For Appellant : Mrs.V.Pushpa
Senior Standing Counsel

For Respondent : Mr.Rajiv Saxena

JUDGMENT

(Delivered by R.SURESH KUMAR, J.)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Chennai by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case the Tribunal is correct in deleting 92% of the additions to Total Income and granting substantial relief, when the execution of the contract and expenditure claimed to have been incurred thereof stands unsubstantiated?

(ii) Whether on the facts and in the circumstances of the case and law, the Hon'ble Tribunal is correct in shifting the burden of proof upon the Department against the settled proposition of law which casts a duty upon the assessee to prove all expenditure claimed by it and when the Assessee has not even produced any prima facie evidence or shifted the burden?

2. It is brought to our notice by the learned Standing Counsel for the appellant Revenue that in the instant case, as per the CBDT's Circular No.9 of 2024 dated 17.09.2024 the tax effect is said to be less than the monetary limit imposed and therefore, the appeal can be disposed of, keeping the substantial questions of law raised in this appeal open for adjudication at a later point of time.

3. Recording the aforesaid submission made by the learned Standing Counsel for the appellant Revenue, this Tax Case Appeal is dismissed for low tax effect, keeping open the substantial questions of law for adjudication at appropriate stage. No costs.

(R.S.K.,J.) **(C.S.N.,J.)**
21.10.2024

NCS : Yes/No
KST

To

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

R.SURESH KUMAR, J.

AND
C.SARAVANAN, J.

KST

T.C.A.No.257 of 2024

21.10.2024