IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE
OF ANDHRA PRADESH
(Special Original Jurisdiction)

PRESENT

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

I.T.T.A.NO.723 OF 2014

DATED: 31-12-2014

Between:

Commissioner of Income Tax-VI,
Hyderabad

.. Appellant

And

M/s. K.K. Maheshwari and others .. Respondent

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

I.T.T.A.NO.723 OF 2014

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The Revenue is in appeal against the order dated 24.05.2013 passed by the Income Tax Appellate Tribunal, Hyderabad Bench "A", Hyderabad, in relation to the assessment year 2003-04. The following substantial question of law is sought to be raised.

> "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is justified in not holding that the entry of opening capital balance of Rs.2,16,03,252/- partakes the character of unexplained investment within the purview of Section 69 of the Income Tax Act, 1961 viewed in the context that the assessee did not admittedly file the returns of income for the earlier years offering the said income ?"

Perusal of para 7 of the order under appeal reflects that the Tribunal was not inclined to interfere in the matter, taking into account the fact that the revenue authorities were themselves not clear as to the year in which the opening cash balance was to be brought to tax and as the settled legal position was that the income of the relevant previous year alone was to be taxed in the relevant assessment year. The Tribunal therefore confirmed the order of the Commissioner of Income Tax (Appeals) holding that merely because the assessee had not filed its returns of income for the earlier assessment years, it could not be brought to tax in the later assessment year. We see no reason to interfere with the findings of the authorities below.

The appeal is devoid of merit and is accordingly dismissed. No costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

31-12-2014
Svv