IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

ITA.No. 55 of 2015 ()

ORDER IN ITA NOS.316 - 318/COCH/2012 OF I.T.A.TRIBUNAL,COCHIN BENCH DATED 27-12-2013

APPELLANT:

A.A.DAVIS
ARIMBOOR, ADAMBUKULAM HOUSE, KODANNUR
THRISSUR

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENT/REVENUE:

THE DEPUTY COMMISSIONER OF INCOME TAX
CENTRAL; CIRCLE, THRISSUR 680001

BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON 12-06-2015, ALONG WITH ITA. 58/2015, ITA. 59/2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

<u>APPELLANT'S ANNEXURES</u>:

ANNEXURE A : COPY OF STATEMENT OF THE PETITIONER.

ANNEXURE B : COPY OF LETTER FILED BY THE APPELLANT.

ANNEXURE C : COPY OF ASSESSMENT ORDER FOR THE YEAR 2007-08 ISSUED BY THE RESPONDENT.

ANNEXURE D : COPY OF ORDER ISSUED BY THE COMMISSIONER OF INCOME TAX (APPEALS) - 1, KOCHI -18.

ANNEXURE E : COPY OF ORDER ISSUED BY THE INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH, COCHIN IN ITA NOS.318-318/COCH/2012.

RESPONDENT'S ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.

I.T.A. Nos.55, 58 & 59 of 2015

Dated this the 12th day of June, 2015

JUDGMENT

Antony Dominic,J.

These appeals are filed by the assessee challenging the common order passed by the Income Tax Appellate Tribunal, Cochin Bench in I.T.A. Nos.316 to 318 of 2012 pertaining to the assessment years 2007-2008 to 2009-2010.

2. The assessee is engaged in manufacturing ornaments for jewellery shops and is also a Director of two companies carrying on kuri or chit business. Revenue carried out search and seizure operations in the business premises of M/s. St.Antony's Timber Depot, Thrissur and consequent thereto the assessee was also subjected to search and seizure on 24.10.2008. Following this assessment was completed under Section 143(3) r/w. Section 153A of the Income Tax Act by making various additions, in all the three years under consideration which mainly relate to the consideration paid on purchase of properties. In the appellate

proceedings, the additions relating to the difference in considerations was confirmed by the Appellate Commissioner. The assessee filed further appeals before the Tribunal and the Tribunal disposed of the appeals by the impugned order. It is this impugned common order which is under challenge before us.

3. We heard the counsel for the appellant and the learned Standing Counsel for the Revenue.

4. Admittedly the additions were made by the assessing officer placing reliance on the document seized (SJ-III) during the course of the search of another assessee by name Babu John and also the sworn statements given by the assessee on 24.10.2008 and 30.10.2008. In the statement dated 24.10.2008, the assessee had accepted the genuineness of the entries made in the above referred document. In the statement dated 30.10.2008, he had reiterated and confirmed the earlier statement of 24.10.2008. However it was only during the assessment proceedings that he gave a letter dated 15.02.2010 retracting from the earlier two statements. However, rightly, the assessing officer rejected the belated retraction and proceeded

to complete the assessment relying on the document seized and the two statements of the assessee himself. Therefore, these additions made relying on this document and the statements, cannot be said to be illegal.

5. The Tribunal's order shows that despite the above, the Tribunal has set aside some of the additions and remitted the matter to the assessing officer for re-consideration.

6. In so far as the additions which were confirmed by the Tribunal are concerned, they are fully substantiated by the document and the statements relied on by the Department. We do not find any illegality nor do we find any question of law arising in these appeals for consideration.

Appeal fails and it is accordingly dismissed.

Sd/-
ANTONY DOMINIC
JUDGE
Sd/-
SHAJI P. CHALY
JUDGE

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smv P.A. to Judge