IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

ITA.No. 116 of 2013 ()

AGAINST THE ORDER/JUDGMENT IN IT(SS)A 117/COCH/2005 of
I.T.A.TRIBUNAL,COCHIN BENCH DATED 29.01.2010

APPELLANT(S)/RESPONDENT/ASSESSEE:

M/S.AVJ JEWELLERY,
A.S.ROAD, CHERTHALA.

BY ADV. SRI.S.ARUN RAJ

RESPONDENT(S)/APPELLANT/REVENUE:

COMMISSIONER OF INCOMD TAX,
KOTTAYAM.

BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON 19-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

APPELLANT'S EXHIBITS

ANNEXURE-A : COPY OF THE ASSESSMENT ORDER DATED 27.11.2002 PASSED BY THE ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE, KOTTAYAM FOR THE BLOCK PERIOD COMMENCING FROM 01.04.1990 TO 09.11.2000.

ANNEXURE-B : COPY OF THE ORDER DATED 14.2.2005 IN APPEAL NO.K176/2002-03 PASSED BY the COMMISSIONER OF the INCOME TAX (APPEAL)-I, KOCHI.

ANNEXURE-C : COPY OF ORDER DATED 29.01.2010 PASSED BY THE ITAT IN IT(SS)A NO.117/COCH/2005.

//TRUE COPY//

PA TO JUDGE.

jg

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

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ITA No.116 of 2013

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Dated this the 19th day of January, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. We have heard the learned counsel for the appellant and the learned standing counsel for the Revenue.

2. In this appeal under Section 260A of the Income Tax Act, 1961, the assessee challenges the decision of the Income Tax Appellate Tribunal reversing an order by which the first appellate authority interfered with an assessment order. The issue, as rightly noted by the Appellate Tribunal, relates to the question whether the assessee had explained its stand regarding 2105.2 grams of gold, which, according to the assessing officer, remained unexplained. The claim of the assessee was that the jewellery to that weight was purchased from one Shree Veer Jewellers, Nellore. The assessing authority proceeded with as if no materials were

offered. The first appellate authority granted relief to the assessee on the basis of materials indicating that explanation was offered by the assessee on the date of search itself. The Appellate Tribunal, at the instance of the Revenue, considered the entire materials on record and held that notwithstanding the manner in which the assessment order was issued, the materials offered by the assessee available on record, did not, in any manner, go to explain the purchase as pleaded by the assessee. The Tribunal, accordingly, reversed the decision of the first appellate authority.

3. Having heard the learned counsel for the parties, we fail to see any substantial question of law arising for decision in this appeal before us. The questions raised are fundamentally relating to facts and appreciation of materials before the statutory authorities. We are also unable to hold that the adjudication and appreciation of materials by the Tribunal are perverse to the extent that such procedure itself would give rise to a substantial

question of law for interference, in favour of the assessee. For these reasons, we see no ground to entertain this appeal under Section 260A of the Income Tax Act. This appeal, therefore, fails.

In the result, this appeal is dismissed.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)

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