IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

I.TA.No. 234 of 2013 ()

AGAINST THE ORDER IN ITA NO.485/COCH/2011 of I.T.A.TRIBUNAL,COCHIN BENCH DATED 28-02-2013.

APPELLANT/RESPONDENT:

THE COMMISSIONER OF INCOME TAX,
THIRUVANANTHAPURAM.

BY ADVS.SRI.P.K.R.MENON,SR.COUNSEL, GOI(TAXES)
SRI.JOSE JOSEPH, SC, FOR INCOME TAX

RESPONDENT(S)/APPELLANT:

K.NANDAKUMAR,
TC 2/2526(3), TKV NAGAR, GOLF LINKS ROAD,
TRIVANDRUM -695 003.

BY ADVS. SRI.K.ANAND (SR.)
SMT.LATHA KRISHNAN

THIS INCOME TAX APPEAL HAVING BEEN FINALLY HEARD ON 16-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

I.T.A.NO.234 OF 2013

APPENDIX

APPELLANT'S ANNEXURES:

ANNEXURE-A: TRUE COPY OF THE ORDER OF THE ASSESSING OFFICER U/S.143 (3) DATED 29/2-12/2008.

ANNEXURE-B: TRUE COPY OF THE ORDER OF THE COMMISSIONER OF INCOME TAX U/S. 263 DATED 03.02.2011.

ANNEXURE-C: TRUE COPY OF THE ORDER OF THE ASSESSING OFFICER U/S. 143 (3)/263 DATED 06.05.2011.

ANNEXURE-D: TRUE COPY OF THE ORDER OF THE COMMISSIONER OF INCOME TAX (APPEALS) DATED 08.03.2013.

ANNEXURE-E: TRUE COPY OF THE ORDER OF THE INCOME TAX APPELLATE TRIBUNAL DATED 28.02.2013.

RESPONDENT'S ANNEXURES: NIL

//TRUE COPY//

P.S. TO JUDGE

St/-

ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.

I.T.A. No.234 of 2013
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Dated this the 16th day of July, 2015

JUDGMENT

Antony Dominic, J.

Heard the learned Senior Standing Counsel for the appellant and the learned Senior Counsel appearing for the Respondent.

2. Revenue has filed this appeal against the order passed by the Income Tax Appellate Tribunal, Cochin in I.T.A.No.485/Coch/2011. Appeal to the Tribunal was preferred by the Respondent against the order passed by the Commissioner in a *suo motu* revision directing the Assessing Officer to deny deduction under Sec.54 of the Income Tax Act. By the impugned order, the Tribunal partly allowed the appeal, and directed the Assessing Officer to examine whether the Respondent is eligible for exemption under Sec.54 when the capital gain amount was not deposited in the specified account as provided under Sec.54(2) of the Act.

3. Though this order is challenged on various grounds, the learned Senior Counsel for the Respondent informs that in compliance with the directions of the Tribunal, the Assessing Officer re-considered the matter and passed order denying the deduction claimed by the assessee. It is also stated that against the order of the Assessing Officer, the assessee has filed an appeal before the Commissioner of Income Tax (Appeals) on 27.12.2013 and that the said appeal has been numbered as ITA No.108/TVM/CIT(A)/2013-14.

3. In the light of the above developments subsequent to the order impugned, we do not think it necessary to go into the merits of the rival contentions.

4. The appeal is therefore disposed of leaving the parties to agitate the matter before the concerned authority who is now seized of the matter.

Sd/-

ANTONY DOMINIC
JUDGE

Sd/-

SHAJI P. CHALY
JUDGE

//true copy//

P.S. to Judge

St/-