THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

I.T.T.A No.753 of 2014

DATE: 23.01.2015

Between:

The Commissioner of Income Tax – II,
Hyderabad.

… Appellant

And

M/s. Shouri Constructions,
Hyderabad.

… Respondent

This Court made the following:

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

I.T.T.A.No.753 of 2014

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JUDGMENT: (per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

This appeal is sought to be preferred and admitted against the judgment and order of the learned Tribunal dated 28.06.2013 in relation to the Assessment Year 2007-08, on the following suggested questions of law:

1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is correct in law in holding that the assumption of jurisdiction under Section 153C of Income Tax Act, 1961 was invalid thereby declaring that the assessment order passed was without jurisdiction?
2. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is correct in law in holding that the seized document cannot be said to be belonging to the respondents assessee despite the fact that the corroborative evidence gathered by the Assessing Officer prove beyond doubt that the respondent assessee has entered into the transaction mentioned in the seized document?

The issue involved in this case is whether initiation of proceedings against the assessee under Section 153C of the Income Tax Act, 1961 (for short 'the Act') is legally valid or not. In other words, the pre-conditions for initiating the proceeding are not fulfilled.

The learned Tribunal, after analyzing the fact and taking note of the judgment of the Tribunal on this issue, found that pre-condition under Section 153C of the Act was not satisfied and it was found that the seized document on the basis of which proceeding under Section

153C of the Act was initiated cannot be said to be belonging to the assessee. In that view of the matter, we are unable to interfere with the judgment and order as we find that there is no element of law to be decided in this appeal.

The appeal is accordingly dismissed. No costs.

K.J. SENGUPTA, CJ

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SANJAY KUMAR, J

Date: 23.01.2015
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