In the High Court of Judicature at Madras

Dated : 09.3.2016

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice N.KIRUBAKARAN

Tax Case Appeal No.1273 of 2007

The Commissioner of Income Tax,
Coimbatore. ...Appellant

Vs

M/s.PRICOL Ltd., Coimbatore. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 31.8.2006 made in I.T.A.No.3339/Mds/2004 on the file of the Income Tax Appellate Tribunal, 'D' Bench, Chennai for the assessment year 1994-95.

For Appellant : Mr.T.R.Senthilkumar
For Respondent : Mr.R.Sivaraman

Judgment was delivered by V.RAMASUBRAMANIAN,J

The above appeal is admitted on 8.10.2007 on the following substantial question of law :

> *"Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the reopening under Section 147 is not in accordance with law, since reopening is made after four years from the*

V.RAMASUBRAMANIAN,J
AND
N.KIRUBAKARAN,J

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> *end of the assessment year, even though the years prescribed under Proviso to Section 147 have to be read with Section 149 where four years have been extended to 7 years and the income escapes to charge is more than Rs.50,000/-?"*

2. Heard Mr.T.R.Senthilkumar, learned Standing Counsel for the Department/appellant and Mr.R.Sivaraman, learned counsel for the respondent/assessee.

3. None of the three Authorities have recorded any finding that there was a failure on the part of the assessee to make a true and full disclosure. Once this finding of fact is clear, the reopening of assessment was incorrect. Hence, the order of the Tribunal is correct.

4. For reopening the assessment beyond the period of four years, but within seven years, the Department should show that there was a failure to disclose true and full information. Since it is not there, the reopening was bad.

5. Accordingly, the above tax case appeal is dismissed. No costs.

09.3.2016

Internet : Yes

To
The Income Tax Appellate Tribunal, 'D' Bench, Chennai.

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