IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2016

CORAM:

THE HON'BLE MR.JUSTICE NOOTY RAMAMOHANA RAO
&
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

Tax Case (Appeal) No.373 of 2008

Commissioner of Income Tax I,
Chennai ... Appellant

Versus

Lucas Indian Service Ltd.,
11 Patullos Road,
Chennai 600 002. ... Respondent

Prayer: Appeal against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 5.10.2007, passed in ITA No.758/Mds/2006.

For Appellant : Mr.T.R. Senthilkumar
Standing Counsel

For Respondent : Mr. Vijayaraghavan,
for Mr.Subbaraya Iyer

J U D G M E N T

(Judgment of the Court was delivered by Nooty Ramamohana Rao, J.)

This appeal is preferred by the Revenue raising the following substantial questions of law;

"Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that

> assessment under section 147 of the Income Tax Act, for the assessment year 2000-01 was bad in law and could not have been done for disallowing certain sums under section 14A, even though no regular assessment under section 143(3) had been made earlier, and the revised return had been filed only in 19.12.2001?"

2. The answer to the question raised by the Revenue is in fact provided in the proviso incorporated to Section 14A of the Income Tax Act, inserted by the Finance Act 2002 with effect from 11th May 2001. The proviso incorporated reads as under;

> "Provided that nothing contained in this section shall empower the Assessing Officer either to reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154, for any assessment year beginning on or before the 1st day of April, 2001. "

3. The language employed in the proviso leaves none in doubt that nothing contained in section 14A will empower the assessing officer either to reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or

otherwise increasing the liability of the assessee in terms and in accordance with section 154 of the Act, for any assessment year beginning on or before first of April 2001.

4. In the instant case, the assessment year with which we are concerned is 2000-01. Therefore the bar contained under the proviso incorporated to section 14A gets attracted to the orders passed by the assessing officer making the reassessment as incompetent and bad in law. The tribunal had rightly arrived at the said conclusion and hence the question raised is answered against the Revenue. The appeal stands dismissed as it is otherwise without any merits. No costs.

[N.R.R.J.] [A.S.M.J.]
02.11.2016

msr

Nooty. Ramamohana Rao, J.
and
Dr.Anita Sumanth, J.

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