In the High Court of Judicature at Madras

Dated : 11.4.2016

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN
and
The Honourable Mr.Justice M.V.MURALIDARAN

TCA.No.207 of 2016

Principal Commissioner of Income
Tax-4, Chennai. ...Appellant

Vs

M/s.Nagappa Motors Pvt. Ltd.,
Chennai-2. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 23.9.2015 made in I.T.A.No.2686/Mds/2014 on the file of the Income Tax Appellate Tribunal, Madras 'A' Bench for the assessment year 2004-05.

against the order of the Commissioner of Income Tax (appeals IV No.121 Mahatma Gandhi Road, Chennai-34 ITa.NO.291/13-14 dated 30.4.2014 PAN.No.AAACN3575G for the assessment year 2004-2005 nd the order of the Income Tax officer (OSD) Company Circle I(4) chennai dated 29.12.2010 PAN.No.AAACN3575G Re assessment order for the assessment year 2004-05.

For Appellant : Mr.T.R.Senthilkumar

Judgment was delivered by V.RAMASUBRAMANIAN,J

The Revenue has come up with the above appeal under Section 260A of the Income Tax Act, 1961, raising the following two substantial questions of law :

"(i) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in annulling the reassessment made under Section 147 holding that the reopening of assessment beyond four years period as the assessee has not concealed any particulars of income during the original assessment proceedings ? and

(ii) Whether under the facts and circumstances of the case, the Income Tax

Appellate Tribunal was correct in not appreciating the provisions of Section 149(1) (b) as per which, the time limit of issue of notice under Section 148 in a case where the escapement of income chargeable to tax amounts to or is likely to amount to one lakh ruppes or more is six years?"

2. Heard Mr.T.R.Senthilkumar, learned Standing Counsel for the Department.

3. The assessment for the year 2004-05 was completed under Section 143(3) read with Section 147 on 29.11.2006. After noticing that the assessee had advanced Rs.50 lakhs for the purchase of the land to its sister concern, the assessment was reopened under Section 147. In response to the notice for reopening, the assessee filed a return admitting a particular income. Thereafter, the reassessment proceedings went on and an order was passed.

4. The assessee filed an appeal on the ground that on a mere change of opinion, the assessment was reopened. The appeal was rejected, forcing the assessee to file a further appeal before the Tribunal. The Tribunal held that the assessee had disclosed all material facts at the time of assessment under Section 143(3) and that therefore, the reopening of assessment beyond four years was not valid in law. It is against the said order that the Revenue has come up with the above appeal.

5. As rightly observed by the Tribunal, this was a second attempt at reopening. Though the Revenue contends that one particular aspect was not taken into account during the first reopening, which related to loans and advances, the original reassessment proceedings indicate that it had been taken into account. Therefore, we find that the order of the Tribunal does not call for any interference.

6. Accordingly, the above tax case appeal is dismissed.

Sd/-
Asst.Registrar (CCC)

/true copy/
Sub Asst. Registrar

RS

To

1. The Income Tax Appellate Tribunal,
Madras 'A' Bench, Chennai-34

2. The Commissioner of Income tax Appeals IV
No.121 Mahatma Gandhi Road, Chennai-34

3. The Income Tax Officer (OSD)
Company Circle IV, (4) Chennai

1 cc to Mr.T.R. Senthilkumar, Advocate, sr. 22962

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AD (CO)
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