

In the High Court of Judicature at Madras

Dated : 03.11.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Review Application No.678 of 2017

M/s.Bali Trading Pvt. Ltd., rep.
by its Director Mr.Suchindra Bali ...Applicant

Vs

- 1.The Principal Commissioner of
Income Tax, Chennai-1, Room No.
702, 7th Floor, New Block, 121,
Mahatma Gandhi Road,
Nungambakkam, Chennai-34.
- 2.The Income Tax Officer, Corporate
Ward-1(2), Room No.614, 6th Floor,
Wanapathy Block, No.121, Mahatma
Gandhi Road, Nungambakkam
Chennai-34. ...Respondents

APPLICATION under XLVII Rule 1 read with Section 114 of the Civil
Procedure Code against the order dated 04.9.2017 made in W.P.No.10599 of
2017.

For Applicant : Mr.G.Baskar
For Respondents : Mrs.Hema Muralikrishnan

ORDER

Heard both.

2. This review application has been filed to review the order passed by
this Court dated 04.9.2017 made in W.P.No.10599 of 2017.

3. The said writ petition was filed by the applicant herein challenging an order passed by the first respondent dated 22.3.2017 passed in a petition under Section 264 of the Income Tax Act, 1961. The petition under Section 264 of the said Act has been filed by the applicant aggrieved by an order passed by the Assessing Officer dated 26.2.2015, by which, the Assessing Officer, relying upon the decision of the Hon'ble Supreme Court in the case of **Goetze (India) Ltd. Vs. CIT [reported in (2006) 284 ITR 323]**, refused to entertain the plea of the assessee that there was a keying mistake while filing the revised return as allowed under Section 139(4) of the said Act, as there is no jurisdiction for him to accept the plea raised by the assessee in the absence of any revised return, which could have been filed by the assessee.

4. Though two avenues were open to the applicant as against the said assessment order, namely by filing an appeal before the Appellate Authority or by way of a revision before the first respondent, the assessee chose to file a revision. Before the Revisional Authority, not only the question of jurisdiction to entertain such a plea was considered, but also the merits and correctness of the stand taken by the assessee that there was a keying mistake, was considered. The first respondent passed the order on 22.3.2017 rejecting the revision petition. When this order was tested before this Court in the said writ petition, this Court concurred with the view taken by the first respondent and dismissed the said writ petition.

5. The learned counsel for the applicant has contended that the

financial statements of the applicant have been signed by the auditor, which will clearly show that major portion of the applicant's income was from property and that there was no business income and this was the keying error. However, this came to the light of the assessee only when the applicant's assessment for the relevant year was taken up for scrutiny under Section 143(3) of the said Act and the plea raised by the applicant was not accepted by the Assessing Officer not on merits, but on the question of his jurisdiction. The assessee filed a revision before the first respondent, who should have accepted the stand taken by the assessee and directed the Assessing Officer to accept the plea of the applicant that there was a keying error.

6. Therefore, it is submitted by the learned counsel for the applicant that nobody is infallible and that even at times, errors occur in the judgments passed by courts. In this regard, the learned counsel for the applicant has referred to an observation made by the Hon'ble Supreme Court in the case of ***State of West Bengal Vs. Kesoram Industries Ltd. [reported in (2004) 266 ITR 721]*** wherein a Constitution Bench of the Hon'ble Supreme Court pointed out that an error attributable either to a stenographer's devil or to sheer inadvertence having crept into the majority judgment in *India Cement's case [1990 (1) SCC 12]*.

7. After hearing the learned counsel for the applicant, this Court is of the considered view that the grounds raised by the applicant are, in fact, grounds, which were canvassed before this Court while arguing the said writ

petition. Thus, the settled legal principle is that the revision is not an appeal in disguise. The exercise of review jurisdiction could be done only if the applicant is able to point out an error, which is apparent on the face of the order. From the submissions made, this Court finds that the applicant has not been able to point out any error, which is apparent on the face of the order, but the attempt appears to be re-arguing the entire matter, which is impermissible.

8. For the aforesaid reasons, this Court finds no grounds to entertain this review. Accordingly, the above review application is dismissed. After the order was dictated, the learned counsel for the applicant submits that the applicant intends to file an appeal against the order passed by the Writ Court and made a request that the original certified copy of the order in the writ petition may be returned. Registry is directed to return the certified copy of the order in the writ petition after retaining a photostat copy.

Internet : Yes

03.11.2017

सत्यमेव जयते

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T.S.SIVAGNANAM,J

RS

To

- 1.The Principal Commissioner of Income Tax, Chennai-1, Room No.702,
7th Floor, New Block, 121, Mahatma Gandhi Road, Nungambakkam,
Chennai-34.
- 2.The Income Tax Officer, Corporate Ward-1(2), Room No.614, 6th Floor,
Wanapathy Block, No.121, Mahatma Gandhi Road, Nungambakkam
Chennai-34.



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