IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.04.2017
CORAM:
The Hon'ble MR. JUSTICE RAJIV SHAKDHER
AND
The Hon'ble MR. JUSTICE R. SURESH KUMAR

T.C.A.No. 212 of 2017

Shri. Jayanthilal Bansilal Jain ... Appellant

/vs/

The Income Tax Officer
Non - Corporate Ward -4 (3)
Chennai - 6 ....Respondent

Appeal filed under Section 260 A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai Bench 'A', dated 26.10.2016 passed in ITA No. 566/Mds/2016 for the Assessment year 2010-2011.

against the order of the Commissioner of Income Tax (Appeals)-5 dated 22.12.2015 in ITA.No.381/CIT(A)-5/13-14 against the order of the Income Tax Officer, Business ward VI(3) dated 31.03.2013 made in PAN.NO.AAPPJ5730M

For Appellant : Mr.Ramanakumar

* * * * *

J U D G M E N T

(Judgment of the court was delivered by Rajiv Shakdher, J.)

1.This is an appeal preferred under Section 260 A of the Income Tax Act, 1961 (in short 'the Act'). Via this appeal, challenge is laid to the judgment and order dated 26.10.2016, passed by the Income Tax Appellate Tribunal (in short 'the Tribunal') in respect of the Assessment Year (AY) 2010-2011.

2.Briefly, the facts, which are required to be noticed, in order to adjudicate upon the appeal, are as follows:

2.1.During the relevant AY, in the course of assessment proceedings, it was found that two unexplained deposits had been credited in the account of the assessee. The enquiry made with the assessee revealed that a sum of Rs.4,41,000/- stood credited in the account of the assessee maintained with Vijaya Bank, while a sum of Rs.42,72,000/- stood credited in the account of assessee maintained with Karur Vysya Bank. In sum, an amount totalling to Rs.47,13,000/- was found credited in the two bank accounts, qua which explanation was sought. Pertinently, in so far as the sum credited in the account maintained with Karur Vysya Bank was concerned, it was not disclosed in the books of accounts of the assessee.

2.2.In response to the queries raised, the assessee attempted to convey that the amounts found credited in the two bank accounts maintained by him, were unaccounted sales.

2.3.In order to buttress the said explanation, the assessee also sought to draw attention to the Demand Drafts issued by him by accessing the said accounts, to demonstrate, that the said amounts had been paid towards unaccounted purchases.

2.4.Based on the purported explanation, the assessee contended before the Tribunal that what could be added back as receipts under Section 68 of the Act was only the gross profit and not the receipts simpliciter.

2.5.The Tribunal, however, rejected the plea advanced by the assessee on account of the fact that he had failed to produce any evidence, which would prove that deposits were made on account of unaccounted sales as contended by him. As per the facts recorded by the Tribunal in the impugned judgment, the assessee produced some cash memos, which did not contain the necessary details leading to a situation that genuineness of the transaction could not be verified. In particular, the cash memos contained no address or date. Furthermore, they were not supported by LR and/or RR numbers. Moreover, some of the memos produced, according to the Tribunal, were not even cash memos, but were approval slips, which were in the nature of quotations.

2.6.In so far as unaccounted purchases were concerned, as indicated above, the assessee had tried to contend that moneys were paid qua the purported purchases via Demand Drafts. The Tribunal records that the details of persons, in whose favour the Demand Drafts were purchased, were not tendered. The Tribunal notes, therefore, that there is no evidence of suppliers nor the payments could be verified from the sketchy details furnished by the assessee. It is, in this background, that the Tribunal came to the conclusion that since the nature and source of deposits made in the bank accounts could not be proved, the entire receipts had to be treated as income.

3.Mr.Ramana Kumar, who appears in support of the appeal, maintained that the receipts were unaccounted sales and therefore, only the element of gross profit could be added as income under Section 68 of the Act.

4.According to us, in view of the findings of fact returned by the Tribunal, qua which nothing has been shown to us to demonstrate that they were erroneous, no interference is called for with the impugned judgment and order.

5.Accordingly, the Tax Case Appeal is dismissed. Consequently, C.M.P.No.5787 of 2017 is also dismissed. There shall, however, be no order as to costs.

-s/d-
Assistant Registrar(CSIV)

True Copy

Sub-Assistant Registrar

sra/aad

To

1.The Income Tax Officer
Non - Corporate Ward -4 (3)
Chennai - 6.

2. The Commissioner of Income Tax(Appeals)-5
Chennai

+1 cc to Mr.B.Ramanakumar Advocate sr 20800
+1 cc to Mr.T.Ravikumar Advocate sr 19920

T.C. (A) No.212 of 2017

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