Tax Case nos.519, 610 to 612 of 2017

Appeal Against the order of the commissioner of Income Tax (appeals)-3, Combatore, dated 15.3.2016 and against the Income Tax officer, Ward -2. (5) and Ward II(2), Erode. Order dated 25/09/2015 and made in /Tan No.BEUPS 3598L fo the Assessment year 2012-2013,2010-11, and 2009-2010.

In the High Court of Judicature at Madras

Dated : 13.12.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice K.RAVICHANDRABAABU

Tax Case Appeal Nos.591 and 610 to 612 of 2017
& CMP.Nos.15510 & 15511 of 2017

Shri K.Sengottaiyan, C/O Subbaraya
Aiyar Padmanabhan and Ramamani,
Advocate ...Appellant/Petitioner

Vs

The Income Tax Officer, Ward 2(5),
Chennai-34. ...Respondent/Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the order 23.2.2017 made in M.A.No.245/Mds/2016 in ITA.No.1017/Mds/2014 as well as the common order dated 24.8.2016 made in ITA.Nos.1015 to 1017/ Mds/2014 on the file of the Income Tax Appellate Tribunal, Madras 'B/SMC' Bench respectively for the assessment years 2011-12 and 2009-10 to 2011-12.

For Appellant : Mr.R.Venkatanarayanan for
M/s.Subbaraya Aiyar Padmanabhan

For Respondent : Mr.T.R.Senthilkumar, SSC

COMMON JUDGMENT
(Judgment was delivered by T.S.SIVAGNANAM,J)

Heard both.

2. These appeals have been filed raising the following substantial question of law :

"TCA.Nos.591 & 610 to 612 of 2017 :

Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the estimation made by the Assessing Officer for coconut trees was above average and therefore, correct without considering that the sale of coconuts with husk from the assessee's garden was at a rate higher than the market price prevalent in the market committee ?

TCA.Nos.610 to 612 of 2017 :

Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in not holding that the Assessing Officer ought to have considered the sale price of the coconut husk in arriving at the agricultural income ? "

3. The appellant filed these appeals against the orders passed by the Tribunal in both the appeals and a miscellaneous petition for the assessment years 2009-10 to 2011-12.

4. The only issue, which falls for consideration, is as to whether the estimation arrived at with regard to the yielding of coconuts per tree and the rate, at which, the coconuts were sold by the assessee as declared in his returns were just and proper. The petitioner's contention before the Commissioner of Income Tax (Appeals) is that they had produced a letter from the Assistant Director, Department of Agriculture, Bhavani, Erode District stating that the age of the trees is more than 15 years on average, and that usually, after 10 years of planting, there would be stable yield and that would be maintained for another 20 years.

5. The assessee's case is that the Commissioner of Income Tax (Appeals) did not properly consider the opinion of the expert, but came to the conclusion that the trees were aged only 15 years and not more than 15 years as opined by the expert. Therefore, it is submitted that the estimation arrived at by the Assessing Officer, as confirmed by the Commissioner of Income Tax (Appeals) by reducing 5% in the yielding capacity as certified by the Agriculture Department is incorrect.

6. On a perusal of the orders passed by the Commissioner of Income Tax (Appeals), it is seen that the he has done a thorough exercise and arrived at the rates and concurred with the opinion of the Assessing Officer. The appellant canvassed the very same ground before the Tribunal. However, the Tribunal, after appreciating the factual position, held that the estimation made by the Assessing Officer has been done both with regard to the yielding capacity as well as the rate per coconut in each tree.

7. The assessee would place reliance on the decision of the Tribunal in the assessee's wife's case in I.T.A.Nos.1013 and 1014/Mds/2016 dated 30.11.2016. On a perusal of the order dated 30.11.2016, we find that the assessee therein conceded before the Tribunal and permitted the Tribunal in its wisdom to fix appropriate rate. The Tribunal, after considering the facts of the said case, passed the order. Thus, this Court is of the view that the entire issue involved in these appeals is fully factual and no substantial question of law arises for consideration in these appeals.

8. Accordingly, the above tax case appeals are dismissed. No costs. Consequently, the connected WMPs are also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax Officer, Ward 2(5), Chennai-34.

2.The Income Tax Appellate Tribunal, Madras 'B/SMC' Bench.

3.The Commissioner of Income Tax (appeas)-3,Coimbatore.

4.The Income Tax officer, ward-II(2), Erode.

+4cc to Mr.Subbaraya Aiyar, Advocate,
S.R.No.8979489795,89797,89798

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.88582

TCA.Nos.591 and 610 to 612/2017
& CMP.Nos.15510 & 15511/2017

NMI(CO)

RRK(17/01/2018)