IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

TAX CASE APPEAL NO.719 OF 2017

M/s.Suryabalaji Investments (P) Ltd., Coimbatore-6. ...Appellant

Vs

The Income Tax Officer, Corporate Ward-3, Coimbatore-18. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 03.2.2017 made in ITA.No.2437/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench, (Camp : Coimbatore) for the assessment year 2012-13, preferred against the order of The Commissioner of Income Tax (Appeals)-I dated 25.05.2016 in Appeal No.14/15-16 challenging the order of the Income Tax office dated 27.03.2015 for the Assessment year 2012-13.

For Appellant : Mr.S.Sridhar

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

Judgment was delivered by T.S.SIVAGNANAM,J

Mr.T.R.Senthilkumar, learned Senior Standing Counsel accepts notice for the Revenue. Heard both.

2. This appeal is directed against the order passed by the Income Tax Appellate Tribunal, Chennai 'A' Bench, (Camp : Coimbatore) in ITA.No.2437/Mds/2016 dated 03.2.2017 for the assessment year 2012-13, raising the following substantial questions of law :

> "i. Whether the Appellate Tribunal is correct in law in sustaining the addition based on notional/ artificial book entries on the mis-construction of Section 69 of the Act while overlooking the mandate for preparation of the financial statements under the Companies Act, 1956 ? and

ii. Whether the Appellate Tribunal is correct in law in sustaining the addition based on book entries as unexplained investments within the scope of Section 69 of the Act overlooking the principles of 'substance over form'?"

3. On a careful reading of the order passed by the Commissioner of Income Tax (Appeals) as well as that of the Tribunal, we find that the above substantial questions of law do not arise for consideration, as what the assessee attempts to do is to call upon this Court to re-appreciate the factual position.

4. In the order passed by the Commissioner of Income Tax (Appeals), it was pointed out that the assessee was not able to explain with proper and justifiable reasons for showing a huge loan amount from a bank whereas the corresponding investments shown in the books of accounts are correct and that the assessee was not able to explain with proper reasons the investments, for which, the bogus liability has been unearthed by the Assessing Officer.

5. Before the Tribunal, the assessee took the very same stand as was taken before the Assessing Officer as well as the Commissioner of Income Tax (Appeals) by stating that the recipients had no corresponding credits in their bank accounts. This issue was examined by the Tribunal and on facts, it was ultimately found that the balance sheet of the assessee reflected investments made by the assessee in two companies, which were group companies of the assessee, namely M/s.Sri Padmabalaji Steels Private Limited and M/s.Suryabalalji Steels Private Limited and that these two companies were again private limited companies. It was further found that the assessee did not dispute that the said two companies were subjected to statutory audit under the Companies Act and that in the auditor's report of the assessee company, it was certified by the Chartered Accountant that the balance sheet and profit and loss account were prepared as per the books of accounts and reflected true and correct working of the assessee company. Thus, the Tribunal held that when both the balance sheets of the assessee company and the balance sheets of the companies, in which, the assessee had invested, reflected the amounts of investments and are correctly tallied, neither the accounts nor the auditor's report could be brushed aside. Hence, the above referred to questions do not arise for consideration and the appeal has been filed only for re-appreciating the factual position. The assessee has not made out any ground to entertain the appeal.

6. Accordingly, the above tax case appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

RS

To

1. The Income Tax Appellate Tribunal,
   Chennai 'A' Bench, (Camp : Coimbatore).

2. The Income Tax Officer,
   Corporate Ward-3,
   Coimbatore-18.

3. The Commissioner of Income Tax(Appeals)-1,
   Coimbatore.

+1cc to Mr.S.Sridhar, Advocate, S.R.No.92444
+1cc to Mr.T.R.Senthilkumar, Advocate, S.R.No.91678

TCA.No.719 of 2017

PA(CO)
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