IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.02.2017

Coram:

The Hon'ble Mr.Justice HULUVADI G.RAMESH
AND
The Hon'ble Dr. Justice ANITA SUMANTH

TAX CASE APPEAL No.2107 of 2008

The Commissioner of Income Tax,
Salem .. Appellant

Versus

M/s.K.P.R. & Company,
36/85 Salem Road,
Namakkal. .. Respondent

Tax Case Appeal file under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal "D" Bench, Chennai dated 06.06.2008 passed in IT (SS)A.No.32/Mds/2007.

For Appellant .. Mr.J.Narayanasamy

For Respondent .. Ms.J.Sree Vidya

JUDGMENT

The Tax Case Appeal filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, "D" Bench, Chennai dated 6.6.2008 in IT(SS)A No.32/Mds/2007 has been admitted on 21.4.2009 for consideration of the following substantial questions of law:

> *"(i). Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition of Rs.65 lakhs assessed as undisclosed income in the hands of the assessee firm in*

HULUVADI G. RAMESH, J.
&
DR.ANITA SUMANTH, J.

msr

the assessment made under section 158BC for the block assessment period 01.04.1996 to 14.11.2002, even though the partners in charge of the affairs of the assessee firm and the partner of the seller firm M/s. K.P.R & Co., had admitted in their sworn statements about the payment and receipt of the said amount in the purchase and sale of six tankers made by them respectively?

(ii) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that there was enhancement of income in the hands of partners Sri Elancharan and Sri Velappan by the Commissioner of Income Tax (Appeals) without giving notice to them under Section 251(1) of the Income Tax Act, even though the Commissioner of Income Tax (Appeals) has only reduced the income assessed in their hands by directing that only one sixth of the unaccounted income payment of consideration for the tankers should be assessed in their hands as against one half assessed by the assessing officer on a prospective basis?

2. Circular instruction issued by the Central Board of Direct Taxes No.21/2015, dated 10.12.2015 stipulates that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.20 lakhs. In the instant case, the tax effect is less than the monetary limit imposed and the appeal is hence, dismissed as not pressed, preserving the substantial questions of law for determination in an appropriate case. No costs.

(H.G.R.,J) (A.S.M.,J)

13.02.2017