THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

I.T.T.A.No. 7 OF 2005

DATED 21ST NOVEMBER, 2017

Between:

C.Sanyasi Raju ... Appellant

AND

The Assistant Commissioner of Income Tax,
Central Circle, Vizag ... Respondent

Counsel for the appellant : Sri Y.Ratnakar

Counsel for the respondent : Sri K.Raji Reddy

THE COURT MADE THE FOLLOWING

<u>JUDGMENT:</u> (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

Feeling aggrieved by dismissal of I.T.(SS).A.No. 5/V/97 by the Income Tax Appellate Tribunal, Visakhapatnam (for short, 'the Tribunal'), the assessee filed this appeal.

2. In this appeal, the assessee raised the following questions terming them as substantial questions of law:

> "1. *Whether on the facts and circumstances of the case, the Tribunal is justified in upholding that the transactions which have already been passed through the books of accounts forming part of the accounts based on which the returns of income were filed, could be processed in the block assessment when these transactions formed part of assessment proceedings under the regular assessment.*
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> 2. *Whether on the facts and circumstances of the case the Tribunal is justified in upholding the assessment of Rs.4,90,000/- as alleged unexplained cash investment in M/s. Srinivasa Marine Exports India Pvt. Ltd. As undisclosed income in the block assessment made on the appellant.*
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> 3. *Whether on the facts and circumstances of the case, the Tribunal is justified in upholding the assessment of Rs.6,00,000/- towards alleged cash investment in the shares in the promoters quota allotted in the names Shri Suresh and M/s. Girija Ferro Alloys Ltd. in the company viz Srinivasa Ferro Alloys Ltd. as undisclosed income in the block assessment made on the appellant.*
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> 4. *Whether on the facts and circumstances of the case of Tribunal is justified in upholding the assessment of Rs.1,02,000/- towards alleged investment in the shares of employees quota in Srinivasa Ferro Alloys Ltd. as undisclosed income in the block assessment made on the appellant.*
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> 5. *Whether on the facts and circumstances of the case the Tribunal is justified in upholding the assessment of Rs.45,603/- as alleged unexplained cash as undisclosed income of the appellant in the block assessment made on the appellant.*
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> 6. *Whether on the facts and circumstances of the case the Tribunal is justified in upholding the assessment of cash balance of Rs.45,603/- as undisclosed income in the block assessment of the appellant without giving an adequate to the appellant to furnish proper letters of confirmation."*

A reading of question Nos. 2 to 6 leaves us in no doubt that they fall in the realm of questions of fact which were decided against the assessee concurrently by the assessing officer as well as the Tribunal. Therefore, these questions of fact do not raise any questions of law much less substantial questions of law. As regards question No. 1, though it indeed raised a substantial question of law, a perusal of the record before the Tribunal does not show that such a question has been raised before it on behalf of the assessee. In our opinion, unless a ground was raised and finding invited thereon before the lower appellate fora, the assessee is not entitled to raise it for the first time as a substantial question of law in the appeal before this Court. In this view of the matter, we are not inclined to interfere with the order of the Tribunal confirming the order of the assessing officer.

3. The appeal is accordingly dismissed.

C.V.NAGARJUNA REDDY, J.

T.AMARNATH GOUD, J.

Date: 21-11-2017.
JSK