HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

ITTA No.458 of 2011

Date:02.11.2017

Between:

The Commissioner of Income Tax,

Central Circle, Hyderabad.

..... Appellant

And:

M/s Dhana Reddy & Co.,

Visakhapatnam.

....Respondent

Counsel for the appellant: Mr. J.V.Prasad

Senior Standing Counsel for IT Department

The Court made the following:

JUDGMENT: *(per Hon'ble Sri Justice Challa Kodanda Ram)*

This appeal is filed against the common order, dated 12.4.2005, to the extent it pertains to I.T.A.No.255/Vizag/2001 on the file of the Income Tax Appellate Tribunal, Visakhapatnam Bench, Visakhapatnam.

The question of law raised in this appeal is as under:

> "Whether on the facts and in the circumstances of the case, the Tribunal is correct in law in holding that creation of two trusts and lease arrangement by the assessee with the Trusts is not a sham transaction, and not a colourable device to avoid taxation?"

In paragraph-21 of the impugned order, the Tribunal recorded its findings, which are as under:

> "The Revenue could not bring any cogent evidence or material on record, which may prove that the two Trusts were sham and were created for the purpose of reducing the income tax liability of the assessee. There is no dispute that the two Trusts were chargeable to maximum tax rate on the income earned by both the Trusts without availing of the basic exemption. Thus, we are of the view that no interference is called for in the order of the CIT (A) for both the assessment years, as in our opinion, the order passed by the CIT (A) does not have any infirmity or illegality and the order represent the correct interpretation of the Income Tax Law. We, therefore, confirm the order of the CIT (A) and dismiss the appeals of the Revenue."

There is no dispute that trusts are chargeable to maximum tax rate on the income earned by them without availing of the basic exemption.

In the light of the above finding of fact recorded by the Tribunal and there being no material which is brought before this Court to show that the aforesaid finding of the Tribunal is perverse, the substantial question of law as raised in the grounds of appeal does not arise from the impugned order of the Tribunal.

In those circumstances, the appeal is dismissed.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE CHALLA KODANDA RAM

02nd November 2017
DR