In the High Court of Judicature at Madras

Dated : 08.10.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.1080 of 2008

The Commissioner of
Income Tax, Chennai ...Appellant
Vs
P.K.Abubacker ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 12.1.2007 in ITA No.462/Mds/01 on the file of the Income Tax Appellate Tribunal Madras 'B' Bench for the assessment year 1988-89.

For Appellant : Mrs.R.Hemalatha, SSC
For Respondent : Mr.Ashok Pathy for
M/s.Pass Associates

Judgment was delivered by T.S.SIVAGNANAM,J
Heard the learned counsel for the appellant.
2. The Revenue preferred this appeal challenging the order passed by the Income Tax Appellate Tribunal in ITA.No.462/Mds/01 for the assessment year 1988-89.
3. The above appeal has been admitted on 04.8.2008 on the following substantial questions of law :
“i. Whether, on the facts and circumstances of the case, the Tribunal is right in holding that the ingredients for the re-assessment under Section 147 is not available in the case on hand ?
ii. Whether in the facts and circumstances of the case, the Tribunal was right in holding that the amount of Rs.9,90,000/- found in the assessee's bank account cannot be assessed in the re-assessment proceedings ? And
iii. Whether in the facts and circumstances of the case, the Tribunal was right in holding that the amount of Rs.9,90,000/- found in the assessee's bank account is in the nature of capital receipt ?”
4. It may not be necessary for us to answer the above substantial questions of law, as the monetary limit in this appeal is lesser than the amount fixed by the circular instructions issued by the Central Board of Direct Taxes. This Court had an occasion to consider the effect of those circulars in TCA.No.395 of 2018 dated 24.7.2018, the relevant portions of which are as follows :
“4. Further, it is relevant to note that by Circular No.3/2018, dated 11.7.2018, monetary limit has further been increased and appeals be maintainable before the High Courts. It has been increased to Rs.50,00,000/-. Hence, viewed from any angle, this appeal could not have been filed.
5. Thus, by applying the above Circular issued by the CBDT, this appeal ought not to have been filed

by the Revenue and hence, for that reason, this tax case appeal is dismissed and the substantial questions of law, framed for consideration, are left open.
5. In the light of the above, the above appeal is dismissed. No costs. The substantial questions of law are left open for consideration.

08.10.2018

Internet : Yes

To

The Income Tax Appellate Tribunal, Madras 'B' Bench.

RS

T.S.SIVAGNANAM,J

AND

V.BHAVANI SUBBAROYAN,J

RS

TCA.No.1080 of 2008

08.10.2018