IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR. JUSTICE N.SATHISHKUMAR

Tax Case Appeal No.11 of 2009

The Commissioner of Income Tax
Salem.

.... Appellant

-vs-

Shri R.P.S.Govindarajan
41,Sankari Main Road,
Annadhanapatty,
Salem - 636 002.

...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'D' Bench, dated 07.04.2005 in ITA No.691/Mds/1999, for the Assessment year 1991-92 Appeal against the order of the commissioner of Income Tax(Appels) VII ,126,Mahatma Gandhi road, Chennai 34 in ITA NO.616/98-99 dated 14.01.99 for the GI NO.PA.NO.G201 for the year 1991-92 against the order of the Assistant commissioner of Income Tax Special Investigation ,Erode Salem 7 in PAN GIR NO.G-201 dated 11.03.94 Under Section 143(3)n R/W 147 for the year 1991-1992.

For Appellant : Mr.T.R.Senthil Kumar
Standing Counsel

For Respondent : Not ready in notice for sole respondent

JUDGMENT

[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

This appeal by the appellant/Revenue is directed against the order of the Income Tax Appellate Tribunal Chennai 'D' Bench, dated 07.04.2005 in ITA No.691/Mds/1999, for the Assessment year 1991-92.

2.Heard Mr.T.R.Senthil Kumar, learned Standing Counsel for the appellant/Revenue.

3.This Appeal has been admitted on 19.02.2009, on the following Substantial Questions of Law:

> "1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee's appeal against the rejection of the assessee's application for granting interest u/s. 132(B)(4)(a) was appealable before the Commissioner of Income Tax (Appeals) u/s. 260A of the Act?
>
> 2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled to interest u/s 132B(4)(a) consequent to the appellate order against the assessment, relying on certain decisions rendered in the context of the deleted section 214 of the Income Tax Act and without noticing that section 132B(4)(a) speaks only of the tax liability arising out of the regular assessment or reassessment and existing tax liabilities."

4.Though notice was ordered to the respondent as early as on 19.02.2009, till date the Revenue has not taken steps to serve notice on the respondent. Therefore, at this juncture, that too after expiry of 9 years, we do not propose to grant time to the Revenue to take steps.

5. Hence, the appeal stands dismissed for default and the Substantial Questions of Law are left open.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

The Income Tax Appellate Tribunal Chennai 'D' Bench.

2.The commissioner of Income Tax(Appels) VII ,126,Mahatma Gandhi road, Chennai 34

3. The Assistant commissioner of Income Tax Special Investigation Circle,Erode Salem 7

+1cc to Mr.T.R.Senthil Kumar , Advocate SR.No. 77212

T.C.A.No.11 of 2009

ASK(04/12/2018)