IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2018

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case No.901 of 2005

The Commissioner of Income Tax
Nungambakkam High Road,
Chennai - 600 034.
.... Appellant /Respondent

Vs.

M/s.Anjaneya Printers Pvt. Ltd.,
18, III Street, East Abiramapuram,
Chennai - 600 004.
.... Respondent/Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai, dated 27.12.2004 made in IT (SSA)No.87(Mds)/98 for the block period 1994-95 to 1996-97, against the order dated 6/3/1998 made in PA/GIR.No.101A passed by the Assistant Commissioner of Income Tax Central Circle II (2), Chennai -34, for the Block Period 1994-95 to 1996-97.

For Appellant : Mrs.Premalatha
for M.Swaminathan
Sr.Standing Counsel

J U D G M E N T

(Delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai, dated 27.12.2004 made in IT(SSA)No.87(Mds)/98 for the block period 1994-95 to 1996-97 by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the Income Tax Tribunal is right in law in treating the share application money as unexplained cash credits, non allowing of interest and treating it as income?

(ii) Whether on the facts and in the circumstances of the case, the Income Tax Tribunal is right in law in holding that an amount of Rs.35.00 lakhs treated as unexplained cash credits was not to be added in the block assessment?

(iii) Whether on the facts and in the circumstances of the case, the Income Tax Tribunal is right in law in detailing the additions made in the block assessment especially when the bank accounts did not reveal any substantial adequate withdrawals nearer to the relevant dates and the source for the advances remained unexplained credits under Sec.68 of the Income Tax Act?

(iv) Whether on the facts and in the circumstances of the case, the Income Tax Tribunal is right in law in setting aside the block assessment especially when the assessing officer had held that the payments have not been made to M/s.Jaya Publications for the purchases made even after a lapse of thirty six months which would clearly indicate that the alleged purchases were only accommodation purchases and trade credits?

(v) Whether on the facts and in the circumstances of the case, the Income Tax Tribunal is right in not considering the fact that the assessee had not filed the return of income either within the due date or till the date of search and the undisclosed income detected on the materials available before the assessing officer would be part of the undisclosed income under section 68 of the Income Tax Act?"

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sl

To

1.The Income Tax Appellate Tribunal,
Madras 'A' Bench, Chennai.

2.The Assistant Commissioner of Income Tax,
Central Circle II(2), Chennai-34.

TC No.901 of 2005

ssd[co]
srg 24/01/2019