IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.148 to 151 of 2009

The Commissioner of Income Tax,
Salem. ..Appellant/Appellant in all appeals

Vs.

P.Shanmugam .. Respondent/Respondent in T.C.A. Nos.148 & 149/2009

P.Mani .. Respondent in T.C.A.

Common Prayer : Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'D' Bench, Chennai, dated 09.12.2005 in ITA Nos.1442, 1443, 1444 and 1445/Mds/2002 for the assessment year 1993-1994 and 1994-1995, against the order of the Commissioner of Income Tax (Appeal) Salem, made in ITA Nos.08 + 09/2002-03, dated 31.5.2002,for the assessment year 1993-94, 1994-95 transferred against the Deputy Commissioner of Income Tax, Circle II, Salem, made in PAN/GIR No.2 DPM003,dated 25.02.2002.

For Appellant in all appeals : Mr.T.R.Senthilkumar Standing Counsel

For Respondents in all appeals : Mr.M.P.Senthil Kumar

C O M M O N   J U D G M E N T
[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

Heard Mr.T.R.Senthil Kumar, learned Standing Counsel for the Revenue and Mr.M.P.Senthilkumar, learned counsel for the respondents.

2. These appeals had been admitted on 12.03.2009, on the following substantial questions of law raised by the Revenue :-

"(i).Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding the reassessment order passed by the Assessing Officer to add back the excessive depreciation that had been computed in the original assessment is invalid in law ?

(ii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the proviso to Section 147 provides that an assessment have to be completed under Section 143(3), then no action can be taken under Section 147 after the expiry of 4 years from the end of the relevant assessment year, even though the assessee failed to make a return or has failed to disclose fully and truly all material facts necessary for assessment in computing the income ?"

3.Before we proceed to consider the substantial questions of law raised in these appeals, we have to first take note of the fact that the tax effect in the present appeals relevant for the assessment year 1997-98 is less than the threshold limit. In the case of Commissioner of Income Tax vs. N.Meenakshisundaram [Tax Case (Appeal) Nos.868 and 869 of 2008; Dated 23.04.2018], this Court had an occasion to consider various circulars issued by the Central Board of Direct Taxes (CBDT) as regards the threshold limits fixed for filing the appeals by the Revenue or pursue the appeals, which are pending from 2008 onwards.

4.Further, it is relevant to note that by Circular No.3/2018, dated 11.07.2018, 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, these appeals could not have been filed.

5.Thus, by applying the above Circular issued by the CBDT, these appeals ought not to have been filed by the Revenue and hence, for that reason, these tax case appeals are dismissed and the substantial questions of law, framed for consideration, are left open. No costs.

Sd/-
Assistant Registrar(CS-VI)

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Sub Assistant Registrar

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To
1.The Income Tax Appellate Tribunal 'D' Bench,
Chennai.

2.The Commissioner of Income Tax,
Salem.

3.The Commissioner of Income Tax (Appeals),
Salem.

4. The Deputy Commissioner of Income Tax,
Circle, II, Salem.

5. The Commissioner of Income Tax,
Circle II, Salem.

6. The Assistant Registrar,
Income Tax Appellante Tribunal,
Rajaji Bhavan, Besant Nagar,
Chennai.

+1cc to Mr.T.R.Senthilkumar, Advocate SR.No.55931

+1cc to Mr.G.Baskar, Advocate SR.No.55840

T.C.A.Nos.148 to 151 of 2009

GMY(04/10/2018)