In the High Court of Judicature at Madras

Dated : 17.9.2018

Coram :

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

Tax Case Appeal Nos.1050 and 1051 of 2010

The Commissioner of Income Tax, Chennai ...Appellant

Vs

Shri.D.Napoleon ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 08.1.2010 in ITA Nos.1577 and 1578/Mds/09 on the file of the Income Tax Appellate Tribunal Madras 'B' Bench respectively for the assessment years 2005-06 and 2006-07 appeal against the order of the Commissioner of Income Tax(A)VI 121,M.G. Road, Nungambakkam, Chennai 34 order in I.T.A. No. 227/2008-2009 and I.T.A. No. 226/2008-2009 against the Assessment Order for the assessment year 2006-2007 and 2005-2006 Deputy Commissioner of Income Tax I(II), Media Circle I,Chennai PAN No. AACPN7786N dated 23.12.2008.

For Appellant : Ms.S.Premalatha
For Respondent : Mr.A.S.Sriraman

COMMON JUDGMENT
(Judgment was delivered by T.S.SIVAGNANAM,J)

Heard the learned counsel for the appellant.

2. The Revenue has preferred these appeals challenging the orders passed by the Income Tax Appellate Tribunal in ITA.Nos.1577 and 1578/ Mds/09 for the assessment years 2005-06 and 2006-07 respectively.

3. TCA.No.1050 of 2010 has been admitted on 11.1.2011 on the following substantial question of law :

> "Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the credits of Rs.94,33,351/- for the assessment year 2005-

> 06, found in the name of the assessee, cannot be treated as unexplained credits on the ground that they relate to loans from the earlier years, when there is a clear declaration in the 44AD report by the assessee that these were fresh credits ?"

4. TCA.No.1051 of 2010 has also been admitted on 11.1.2011 on the following substantial question of law :

> "Whether, on the facts and circumstances of the case, the Tribunal was right in holding that credits of Rs.12,97,188/- for the assessment year 2006-07, found in the name of the assessee, cannot be treated as unexplained credits ?"

5. It may not be necessary for us to answer the above substantial questions of law, as the monetary limits in these appeals are 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."

6. In the light of the above, the above appeals are dismissed. No costs. The substantial questions of law are left open for consideration.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To
1. The Income Tax Appellate Tribunal, Madras 'B' Bench.
   Sastri Bhavan, Chennai,

2. The Commissioner of Income Tax(A)VI
   121,M.G. Road, Nungambakkam, Chennai 34

3. The Deputy Commissioner of Income Tax
   Media Circle I, Chennai.

+1 CC to Mr.M. Swaminathan, Advocate sr 64806.

TCA.Nos.1050 and 1051 of 2010

KS(CO)
SP(03/10/2018)