*THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

*THE HON'BLE MS. JUSTICE J. UMA DEVI

+ INCOME TAX TRIBUNAL APPEAL Nos.704 AND 705 of 2016

%11.04.2018

Between:

ITTA No.704 of 2016:

Pendurthi Chandrasekhar,
Hyderabad

.. Appellant

Vs.

$ The Deputy Commissioner of Income Tax,
Central Circle-II, Hyderabad

.. Respondent

AND

ITTA No.705 of 2016:

Pendurthi Chandrasekhar,
Hyderabad

.. Appellant

Vs.

$ The Deputy Commissioner of Income Tax,
Central Circle-II, Hyderabad

.. Respondent

! Counsel for Appellant : Mr. Ginjupalli Subba Rao

^ Counsel for respondents : Smt. M.Kirnmayee.

<GIST:

>HEAD NOTE:

? CASES REFERRED: ----

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI

INCOME TAX TRIBUNAL APPEAL Nos.704 AND 705 of 2016

COMMON JUDGMENT: *(Per Justice V.Ramasubramanian)*

The Assessee has come up with the above appeals under Section 260A of the Income Tax Act, challenging a common order passed by the Income Tax Appellate Tribunal.

2. Heard Mr. K.V.Kumar, learned counsel for the appellant and Smt.M.Kiranmayee, learned senior standing counsel for the Department.

3. Though the appellant had originally come up with a few substantial questions of law, the learned counsel for the appellant subsequently filed a memo reframing the substantial questions of law. The reframed substantial questions of law are as follows:

> "I) Whether on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal while reversing the decision of the Commissioner of Income-tax (Appeals) and confirming the addition of Rs.1,52,00,000/- received as loan from wife Smt.P.Shanti Chowdary as unexplained credit under section 68 of the Act, is right in law in holding that genuineness of the transaction is not proved in spite of substantial evidence on record?
>
> II) Whether on the facts and in the circumstances of the case, the decision of the Income-tax Appellate Tribunal is perverse and without application of mind in confirming the addition of Rs.1,52,00,000/- received as loan from Smt.P.Shanti Chowdary?
>
> III) Whether on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal is right in law in ignoring the reference made by the Assessing Officer to the Foreign Tax Division of the Central Board of Direct Taxes requesting to verify the genuineness of the amounts received from UK and confirming the addition though no adverse communication is received as per records?
>
> IV) Whether on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal is right in law in upholding he conclusion of the Assessing Officer and the learned Commissioner of Income-tax (Appeals) that undisclosed income has been brought in the form of gifts in spite of the fact that there was no income earning activity to the assessee?'

4. In respect of the assessee's own case in ITTA No.702 of 2016, the very same substantial questions of law revolving around the loan taken by the appellant from his wife came up for consideration before another Bench. By a judgment dated 23.02.2018, this Court answered these questions in favour of the appellant. Therefore, following the same, ITTA Nos.704 and 705 of 2016 are allowed and the reframed questions of law are answered in favour of the appellant.

5. Consequently, miscellaneous petitions if any pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

April 11, 2018

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