THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

ITTA NO. 509 OF 2018

ORDER: (Per Hon'ble Sri. Justice V. Ramasubramanian)

The Revenue has come up with the above appeal under Section 260A of the Income Tax Act, 1961, challenging an order of the Income Tax Appellate Tribunal dismissing an appeal filed by the Revenue as against penalty.

Heard Mr. K. Raji Reddy, learned Senior Standing Counsel for Revenue.

As against the levy of penalty under Section 271 (1) (c) of the Income Tax Act, 1961, the assessee filed a statutory appeal. The CIT (Appeals) allowed the appeal holding that the assessee had not furnished any material particulars of the income which could be said to be inaccurate. The relevant portion of the order of the CIT (Appeals) reads as under,

> "I have considered the submissions and details on record. I find that the assessee's claim of depreciation at 10% is under the bonafide belief that as the residential quarters were utilized for the hospital purpose and formed part and parcel of hospital premises, the same would be eligible depreciation as hospital building. Further, the assessee has huge loss and therefore there cannot be malafide intention to make such excess claim to evade tax. Besides the assessee had not furnished any material particulars of income which could be said to be inaccurate. It is well settled principle that a mere making of a bonafide claim would not amount to furnishing of inaccurate particulars of income. Therefore, I am of the view that the levy of impugned penalty is not justified. Accordingly the AO is directed to cancel the impugned penalty."

As against the said order, the Revenue went on appeal to the Tribunal. The Tribunal dismissed the appeal, pointing out that the assessee neither concealed the income nor filed inaccurate particulars.

Therefore, it is clear that the two authorities viz., CIT (Appeals) and the Tribunal have recorded findings of fact for setting aside the penalty under Section 271 (1) (c) of the Act. Hence no substantial question of law arises for consideration. Therefore, the appeal is dismissed. No costs.

JUSTICE V. RAMASUBRAMANIAN

Dt. 3.12.2018
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JUSTICE J. UMA DEVI

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