

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2019

CORAM

THE HONOURABLE DR. JUSTICE VINEET KOTHARI

AND

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Rev.Apln.Nos.141 to 146/2019 &
CMP.Nos,15365, 15370, 15415, 15422 & 15425/2019

The Additional Commissioner of Income Tax
Business Range VIII,
Chennai -6.

..Petitioner/Respondent
in All Petitions

Vs.

Sri.K.Devakar

.. Respondent/Appellant
in All Petitions

Prayer: Review Application filed under Order XLVII Rule 1 of the Code of Civil Procedure, 1908, seeking review of the judgment dated 01.04.2019 in TCA.No.1383 to 1388 of 2008.

TCA.No.1383/2008 is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'B' Bench, dated 16.05.2008, passed in ITA.No.483/Mds/2008 for the Assessment year 2000-2001 preferred against the order dated 21.01.2018 made in I.T.A.No.80/07-08 passed by the Commissioner of Income Tax (Appeals) IX, Chennai against the order of the Additional Commissioner of Income Tax, Business Range VIII(I/c) Chennai -6, dated 15.03.2007 made in PAN.No./GIR.No.ADRPD0326J.

TCA.No.1384/2008 is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'B' Bench, dated 16.05.2008, passed in ITA.No.20/Mds/2008 for the Assessment year 2002-2003 preferred against the order dated 14.11.2007 made in I.T.A.No.62/07-08 passed by the Commissioner of Income Tax (Appeals) IX, Chennai against the order of the Additional Commissioner of Income Tax, Business Range VIII(I/c) Chennai -6, dated 29.12.2006 made in PAN.No./GIR.No.ADRPD0326J.

TCA.No.1385/2008 is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'B' Bench, dated 16.05.2008, passed in ITA.No.21/Mds/2008 for the Assessment year 2004-2005 preferred against the order dated 14.11.2007 made in I.T.A.No.63/07-08 passed by the Commissioner of Income Tax (Appeals) IX, Chennai against the order of the Additional Commissioner of Income Tax,

Business Range VIII(I/c) Chennai -6, dated 29.12.2006 made in PAN.No./GIR.No.ADRPD0326J.

TCA.No.1386/2008 is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'B' Bench, dated 16.05.2008, passed in ITA.No.484/Mds/2008 for the Assessment year 2001-2002 preferred against the order dated 21.01.2018 made in I.T.A.No.81/07-08 passed by the Commissioner of Income Tax (Appeals) IX, Chennai against the order of the Additional Commissioner of Income Tax, Business Range VIII(I/c) Chennai -6, dated 15.03.2007 made in PAN.No./GIR.No.ADRPD0326J.

TCA.No.1387/2008 is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'B' Bench, dated 16.05.2008, passed in ITA.No.485/Mds/2008 for the Assessment year 2003-2004 preferred against the order dated 21.01.2018 made in I.T.A.No.82/07-08 passed by the Commissioner of Income Tax (Appeals) IX, Chennai against the order of the Additional Commissioner of Income Tax, Business Range VIII(I/c) Chennai -6, dated 15.03.2007 made in PAN.No./GIR.No.ADRPD0326J.

TCA.No.1388/2008 is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'B' Bench, dated 16.05.2008, passed in ITA.No.486/Mds/2008 for the Assessment year 2005-2006 preferred against the order dated 17.01.2008 made in I.T.A.No.83/07-08 passed by the Commissioner of Income Tax (Appeals) IX, Chennai against the order of the Additional Commissioner of Income Tax, Business Range VIII(I/c) Chennai -6, dated 15.03.2007 made in PAN.No./GIR.No.ADRPD0326J.

For Petitioner in both
Petitions : Mr.M.Swaminathan,
Standing Counsel

For Respondent in both
Petitions : Ms.S.P.Aarthi

COMMON ORDER

[Order of the Court was delivered by DR.VINEET KOTHARI, J.,]

The above review applications have been filed by the Income Tax Department pointing out that in the order passed by this Court on 01.04.2019, a cost of Rs.10,000/- was imposed on the Assessing Authority, who imposed the impugned Penalty Order, one Mr.B.B.Rajendra Prasad, Joint Commissioner of Income Tax, Business Range VIII [I/c], Chennai.

2 The learned counsel for the Appellant/Revenue pointed out that the Assessment Order was passed by Mr.B.B.Rajendra

Prasad on 15.03.2007 who only initiated the impugned penalty proceedings u/s.271[1][c] of the Act as on that date. But the actual Penalty Order was passed by another Authority, viz., Ms.Anupama D.Shukla, IRS, Additional Commissioner of Income Tax, Business Range-VIII, Chennai-6, on 10.09.2007 u/s.271[1][c] of the Act for the Assessment Years 2000-2001 and 2003-2004 and therefore, the said mistake of name deserves to be corrected in the order dated 01.04.2019 passed by this Court. He further prayed that the Court may take an liberal view of the matter and waive the cost imposed on the Authority while maintaining the order in other aspects.

3 The learned counsel for the respondent/assessee has no objection to the same.

4 Having heard the learned counsel for the parties and taking a liberal view of the matter, we waive the cost imposed on the Assessing Authority who passed the impugned Penalty Order.

5 Accordingly, the Review Applications are allowed and the order dated 01.04.2019 shall stand modified to that extent, deleting the quantum of penalty of Rs.10,000/- to be paid by the Assessing Officer. The other part of the order dated 01.04.2015 is maintained. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Additional Commissioner of Income Tax,
Business Range VIII, Chennai -6.
- 2.The Income Tax Appellate Tribunal,
Chennai 'B'Bench, Chennai.
- 3.The Joint Commissioner of Income Tax,
Business Range VIII(I/c), Chennai -6.
- 4.The Commissioner of Income Tax (Appeals)IX, Chennai.
- 5.The President, Income Tax Appellate Tribunal,
Chennai 'B' Bench, Chennai.
- 6.The Judicial Member, Income Tax Appellate Tribunal,
Chennai 'B'Bench, Chennai.
- 7.The Accountant Member, Income Tax Appellate Tribunal,
Chennai 'B'Bench, Chennai.
- 8.The Law Secretary, Government of India,
Ministry of Law & Justice, New Delhi.