IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6.9.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

TAX CASE NOS.1785 & 1786 OF 2008

Commissioner of Income Tax
Chennai .. Appellant/Appellant

Vs.

Shri.M.E.Shanmugam .. Respondent/Respondent

Tax Cases filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 20.12.2007 made in IT(SS)A Nos.73/Mds/2006 and 15/Mds/2006. Against the order dated 23.01.2006 made in ITA.No.183/04-05 on the file of the Commissioner of Income Tax, (Appeals)-1, Chennai 600034 and against the order dated 30.04.2004 made in AAGP50240L on the file of the Assistant Commissioner of Income Tax Central Circle -I(3), Chennai-34 (TC.No.1785, 1786 of 2008)

For Appellant : Mr.T.R.Senthilkumar
Senior Standing Counsel assisted by
Ms.K.G.Usha Rani, Jr. Standing Counsel

For Respondent : Mr.A.S.Sivaraman

COMMON JUDGMENT
(Delivered by DR.VINEET KOTHARI,J)

These Tax Cases has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 20.12.2007 made in IT(SS)A Nos.73/Mds/2006 and 15/Mds/2006, for the Block Assessment Period from 1.4.1990 to 20.1.2000, by raising the following substantial questions of law:

> "(i) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in holding that the income shown in the belated return is not undisclosed income contrary to the provisions of

Section 158BB(1)(c) of the Income Tax Act?

ii) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in allowing the claim of interest paid to Sundaram Finance when the loan was not borrowed for the purpose of generating taxable income, in view of Section 14A of the Act?

iii) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in holding that the expenditure on construction of guest house of M/s.Binny Ltd should be made on the hands of the company only, when the amount of Rs.35,36,000/- represents the amount advance for construction from the personal funds of the assessee without being accounted in M/s.Binny Ltd?

iv) Whether in the facts and circumstances of the case, the Tribunal was right in holding that surcharge is not applicable to block assessments if the search took place prior to introduction of the proviso to sec.113 with effect from 1.6.2002?

v) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessee was not liable for taxation on the capital gains on the T.Nagar Property when VDIS certificate does not contain the description of the said property?

vi) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the capital gains on the T.Nagar property had already been shown in the VDIS in the absence of any proof of the same?

vii) Whether in the facts and circumstances of the case, the Tribunal was right in applying the ratio of G.K.Senniappan's case to the assessee, when the materials here were found as a result of search and not survey?"

2. When the matters are taken up for hearing, learned Senior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant cases, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeals filed by the Revenue are dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Commissioner of Income Tax (Appeals)-I,
   Chennai

2. Income Tax Appellate Tribunal,
   'B' Bench, Chennai.

3. The Deputy Commissioner of
   Income Tax, Central Circle I(3)
   Chennai 600 034.

4. The Assistant Commissioner of Income Tax,
   Central Circle-I(3), Chennai-34

+1cc to Mr.A.S.Sivaraman, Advocate, S.R.No.77011

T.C.Nos.1785 & 1786 of 2008

SR(CO)
CS/30/10/2019