In the High Court of Judicature at Madras

Dated : 05.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.1138 & 1139 of 2009

M/s.Gay Silk Mills, Chennai-1. ...Appellant/Respondent in both TCA's

Vs

The Income Tax Officer, Business Ward VII(4), Chennai-6. ...Respondent/Appellant in both TCA's

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 18.5.2009 made respectively in ITA.Nos.182 and 183/ Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment years 1994-95 and 1995-96

arising against the consolidated order passed by the Commissioner of Income Tax (Appeals)-IX, Chennai in ITA Nos.149 and 157/00-01 and renumbered as ITA No. 15 and 16/06-07, dated 16.11.2007 against the Assessment order for the Year 1994-95 and 1995-96 by the Income Tax Officer, Ward 18(2) Mumbai, dated 30.3.2000.

For Appellant : Mr.M.P.Senthilkumar

For Respondent: Ms.S.Premalatha, Junior Standing Counsel

COMMON JUDGMENT

(Judgment was delivered by T.S.Sivagnanam,J)

We have heard Mr.M.P.Senthilkumar, learned counsel for the appellant - assessee and Ms.S.Premalatha, learned Standing Counsel appearing for the respondent - Revenue.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for brevity, the Act), are directed against the common order dated 18.5.2009 made respectively in ITA.Nos.182 and 183/Mds/2008 on the file of the Income Tax Appellate Tribunal, Madras 'A' Bench (for short, the Tribunal) for the assessment years 1994-95 and 1995-96.

3. The above appeals were admitted on 16.11.2009 on the following substantial question of law :

> "Whether, on the facts and circumstances of the case, the Income Tax Tribunal is right in law in holding that there is valid recording of reasons and that the reopening of assessment is valid in law?"

4. After elaborately hearing the learned counsel for the parties, we find that there is absolutely no question law, much less, a substantial question of law arising for consideration. The issue was as to whether the Assessing Officer recorded reasons for being satisfied that the assessment had to be reopened. The assessee took a stand before the Commissioner of Income Tax (Appeals)-IX, Chennai [for short, the CIT(A)] that there was no recording of reasons in the separate order sheet. The CIT(A), on going through the files, while accepting that there were reasons recorded by the Assessing Officer in favour of the assessee itself, but in a separate letter.

5. The CIT(A) took up a few words in the said letter where the Assessing Officer used the terms 'appears' and 'appeared' and concluded that there was no formation of opinion that the assessment had to be reopened. The Tribunal called for the entire records and found that the letter dated 05.1.2000 of the Assessing Officer formed part of the original records and in the combined order sheet for the assessment years 1994-95 and 1995-96, there were reasons recorded, after which, the approval was sought for from the Commissioner for issuing notice under Section 148 of the Act. As rightly held by the Tribunal, the approach of the CIT(A) was unwarranted and in our considered view, it was perverse. Thus, we find that there is no ground to interfere with the common impugned order passed by the Tribunal.

6. Accordingly, the above tax case appeals are dismissed as no substantial question of law arises for consideration. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal,
Chennai 'A' Bench.

2.The Commissioner of Income Tax (Appeals)-IX,
Chennai.

3.The Income Tax Officer,
Ward 18(2), Mumbai.

+2cc to Mr.N.Muthukumar, Advocate Sr.66844
+1cc to Mr.S.Premalatha, Advocate Sr.66650

TCA.Nos.1138 & 1139 of 2009

rsk[co]
srg 16/09/2019