IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.7.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TAX CASE APPEAL NOS.1276 TO 1278 OF 2009

Shri.N.Baskaran, Prop.: M/s.Ram Leathers ...Appellant/Respondent in all

Vs

The Assistant Commissioner of Income Tax, Circle I, Vellore. ...Respondent/Appellant in all

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 16.1.2009 made in ITA.Nos.124 to 126/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench respectively for the assessment years 2002-03 to 2004-05 and as against the order of the Commissioner of Income Tax, Chennai, dt.07/11/2007 in ITA. Nos.54 to 56/2006-07 and against the order of the Assistant Commssioner of Income Tax, Vellore dt.22/06/2007 for the assessment year 2002-03 to 2004-05 respectively for PAN/GIR No.11725-B/AACPB9409Q.

For Appellant : Mr.G.Baskar

For Respondent: Mr.M.Swaminathan, SSC and
Mrs.V.Pushpa, JSC &
Mrs.S.Premalatha, JSC

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JUDGMENT WAS DELIVERED BY T.S.SIVAGNANAM,J

We have heard Mr.G.Baskar, learned counsel for the appellant and Mr.M.Swaminathan, learned Senior Standing Counsel appearing for the respondent.

2. These appeals filed by the assessee under Section 260A of the Income Tax Act, 1961 (for short, the Act) are directed

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against the common order dated 16.1.2009 in ITA.Nos.124 to 126/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench respectively for the assessment years from 2002-03 to 2004-05.

3. The appeals were admitted on 24.11.2009 on the following substantial question of law :

> "Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in upholding the jurisdiction of the Assessing Officer under Section 147 in reopening the assessment by holding that there was no change of opinion ?"

4. It is represented by the learned counsel on either side that the substantial question of law framed for consideration is not required to be answered in the light of the fact that the Tribunal granted relief to the assessee on the merits of the case. However, with regard to the reopening of assessment under Section 147 of the Act, the Tribunal held against the assessee, as against which, the above appeals have been preferred. It is further submitted that the Revenue has not preferred any independent appeal questioning the order of the Tribunal, which was decided on merits in favour of the assessee.

5. In the light of the above submissions, the issue raised in these appeals has become academic and it is not required to be answered, as the assessee succeeded before the Tribunal and it has become final. Further, the Revenue has not preferred any appeal on the finding rendered in that regard on merits.

6. Accordingly, the above tax case appeals are disposed of, as there is no necessity to answer the substantial question of law framed, which is left open. No costs.

सत्यमेव जयते

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

To

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

2.The Assistant Commissioner of Income Tax,
Circle I, Vellore.

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3.The Commissioner of Income Tax Appeal IX,
Chennai.

+1cc to Mr.Philip George, Advocate, S.R.No.60918
+1cc to Mr.M.Swaminathan, Advocate, S.R.No.62006

TCA.Nos.1276 to 1278 of 2009

SVI(CO)

RRS(27/08/2019)

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