In the High Court of Judicature at Madras

Dated : 19.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.1120 & 1127 of 2010

Commissioner of Income Tax I,
Madurai ...Appellant /Respondent
(in both)

Vs

S.Ponnaiyan ...Respondent/Appellant
(in both)

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 23.4.2010 made respectively in ITA.Nos.1081 and 1386/Mds/2009 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment years 2001-02 and 2007-08 and against the order of the Commissioner of Income Tax (Appeals)-II Madurai-625 002 dated 26/05/2009 & 08/05/2009 made in ITA.No.271/2008-09 & 270/2008-09 and against the Order of the Assistant Commissioner of Income Tax, Central Circle-II Madurai dated 30/12/2008 made in PAN GIR.No.AHUPP2677H for the Assessment year 2006-2009 & 2007-2008.

For Appellant: Mr.M.Swaminathan, SSC assisted by Ms.V.Pushpa, SC
For Respondent: Mr.N.Devanathan

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

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel appearing for the appellant - Revenue and Mr.N.Devanathan, learned counsel appearing for the respondent - assessee.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated 23.4.2010 made respectively in ITA.Nos.1081 and 1386/Mds/2009 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment years 2001-02 and 2007-08.

3. The appeals were admitted on 24.1.2011 on the following substantial questions of law :

"TCA.No.1120 of 2010 :

Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in deleting the addition made by the Assessing Officer and confirmed by the Commissioner of Income Tax (Appeals) even though the passbooks were found in the assessee's own residential premises and this will lead to the statutory presumption in terms of Section 132(4A) that control over such books and the assets mentioned therein in the forms of fixed deposits, was with the assessee himself ?

TCA.No.1127 of 2010 :

i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in deleting the addition made by the Assessing Officer in respect of purchase of Friends Matriculation School and adjacent land from Sri Mani based on sale agreement even though during the search materials found and the agreed amount of Rs.35,00,000/- was to read in relation to school and along with the 20 cents of lands and building thereon instead of a registered value of Rs.13,95,800/- ?

ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in deleting the addition made by the Assessing Officer on the basis of statement recorded from Smt.Poncy and they have failed to disclose the jewellery in the wealth tax return ?

iii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the addition made by the Assessing Officer to the tune of 205.08 grams of gold estimated to be unexplained investment under Section 69B of the Act even though the Income Tax Appellate Tribunal failed to note that the assessee has failed to disclose the jewellery in the wealth tax return ? And

iv. Whether, on the facts and in the circumstances of the case, the Income Tax

> Appellate Tribunal was right in deleting the addition of Rs.50,000/- made by the Assessing Officer on the basis that the promissory note was seized in the residence of the assessee during the search under Section 132 of the Income Tax Act, 1961?"

4. The learned Senior Standing Counsel for the appellant submits that the above appeals are not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in the respective cases is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeals are dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect in the respective cases is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeals to be heard and decided on merits. No costs.

-s/d-
Assistant Registrar(CSII)

True Copy

Sub-Assistant Registrar

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

2.The Commissioner of Income Tax (Appeals)-II
Central Revenue Building Bibikulam Madurai-625 002

3.The Assistant Commissioner of Income Tax,
Central Circle-II

+2 ccs to M/s.M.Swaminathan Advocate sr70412 & 70413

TCA.Nos.1120 & 1127
of 2010

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