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 No.17 of 2010

The Commissioner of Income Tax, Coimbatore ...Appellant/Respondent

Vs

Dr.R.A.Ganesan ...Respondent/Appellant

Prayer: APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 11.1.2008 made in IT(SS)A.No.9/Mds/2005 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the block assessment period 1996-97 to 2002-03. and against the order of the commissioner of Income Tax(Appeals)-II, Coimbatore- dated 20.10.2004, made in IT.Appeals NO.155-C/03-01 for the assessment year 1996-97 to 2002-03 (up to 6.3.02) and against the order of the Assistant Commissioner of Income Tax, Central Circle-IV, Coimbatore, dt.2.6.2003, for the Assessment year(S) 1996-97 to 2002-03(till 6.3.2002).

For Appellant :Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani, SC

For Respondent:Mr.A.S.Sriraman

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Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel, assisted by Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant – Revenue and Mr.A.S.Sriraman, learned counsel appearing for the respondent – assessee.

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2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 11.1.2008 made in IT(SS)A.No.9/Mds/2005 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the block assessment period 1996-97 to 2002-03.

3. The appeal was admitted on 18.1.2010 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in entertaining the issue relating to the non issuance of warrant for the first time when the assessee has participated in the block assessment proceedings and had not raised the said issue before the Commissioner of Income Tax (Appeals) ?
>
> ii. Whether, on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition made towards money paid for the purchase of land even though this was proved statement recorded under Section 132(4) of the Income Tax Act, 1961?
>
> iii. Whether, on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition made relating to the unexplained credit of Rs.4.5 lakhs without taking into consideration the credit worthiness of the lenders ? And
>
> iv. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the surcharge under Section 113 is not leviable on the ground that the search in this case was held prior to 01.6.2002?"

4. The learned Senior Standing Counsel for the appellant submits that the above appeal is 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 this case is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The

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substantial questions of law framed are left open. In the event the tax effect 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 appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

RS

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

2.The Commissioner of Income Tax, (Appeals*II),
  Coimbatore.

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

+1cc to Mr.S.Sridhar, Advocate SR.70087
+1cc to Mr.T.R.Senthilkumar, Advocate SR.70473

TCA.No.17 of 2010

MR(CO)
CB(04/11/2019)

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