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.548 & 549 of 2010

Commissioner of Income Tax I,
Chennai ...Appellant /Respondent

Vs

Ms.C.Vinaya Kumari, Hyderabad. ...Respondent/Appellant

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 12.6.2009 made in ITA.Nos.1601 and 1602/H/2008 on the file of the Income Tax Appellate Tribunal, Hyderabad 'B' Bench for the assessment years 2003-04 and 2004-05. Against the common order passed by the commissioner of Income Tax(Central)(I/c) Hyderabad. Dated 30.04.2009 made in CIT(c)/II/Ibe Centralization/1/09-10.

Against the common order passed by the Commissioner of Income-tax (Appeals)-I, Hyderabad dated 30.09.2008 made in ITA.No.0034/CC-2, HYD/CIT(A)-I/07-08 and

Against the common orders passed by the Assistant Commissioner of Income Tax, Central Circle-2 Hyderabad, dated 28.06.2007 made in ABEPV9756B, dated 28.12.2006 made in PAN/GIR No.ABEPV9756B.

For Appellant:Mr.T.R.Senthilkumar, SSC assisted by
Ms.K.G.Usharani, SC
For Respondent:Mr.Venkata Narayanan for
M/s.Subbaraya Aiyer Padmanabhan

COMMON JUDGMENT

(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.Venkata Narayanan, 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 12.6.2009 made in ITA.Nos.1601 and 1602/H/2008 on the file of the Income Tax Appellate Tribunal, Hyderabad 'B' Bench for the assessment years 2003-04 and 2004-05.

3. The appeals were admitted on 12.7.2010 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 canceling the penalty of Rs.4,48,480/- and Rs.4,89,540/- respectively levied under Section 271(1)(c) of the Income Tax Act, 1961 based on the incriminating evidence found during the search conducted in the premises of the assessee under Section 132 of the Act in the form of accounts maintained in the tally accounting package ?
>
> ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that when the assessee was found to have been maintaining two sets of accounts, he could disown one set of accounts without any obligation to explain the discrepancies within the two sets of accounts and thereby holding that no penalty under Section 271(1)(c) of the Act could be levied for concealment of income ? And
>
> iii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not holding that when there is admission on the part of the assessee of concealed income after being confronted with the incriminating material found during the search, there was no burden cast on the Assessing Officer to prove the concealment disregarding the several

judicial rulings on this issue like the Madras High Court's decision in 271 ITR 286?”

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

True Copy

Sub-Assistant Registrar

To
The Income Tax Appellate Tribunal, Hyderabad 'B' Bench.

2.The Commissioner of Income Taxe
(Central)(I/c) Hyderabad.

3.The Commissioner of Income tax
(Appeals)-I Hyderabad

4.The Assistant Commissioner of Income Tax,
Central Circle -2
Hyderabad

+1 cc to Mr.Subbaraya Aiyar Advocate sr70479
+1 cc to Mr.T.R.Senthil kumar Advocate sr70472

TCA.Nos.548 & 549 of 2010

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