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.550 of 2010

The Commissioner of Income Tax,
Salem ...Appellant

Vs

Mr.C.Chinnusamy (HUF),
Tiruchengode. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 10.8.2007 made in IT(SS)A.No.123/Mds/2004 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the block assessment 01.4.1989 to 19.1.2000 as against the order of the Commissioner of Income Tax Appeal, Chennai D Bench made in ITA No.5/2002-03, dated 14.08.2004 as against the Commissioner of Income Tax Appeals, Salem for the Assessment Year 01.4.1989 to 19.01.2000, dated 31.01.2002 against the PAN GIR No:IDPC0022.

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

For Respondent: No appearance

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar, Senior Standing Counsel, assisted by Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant - Revenue.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 10.8.2007 made in IT(SS)A.No.123/Mds/2004 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the block assessment 01.4.1989 to 19.1.2000.

3. The appeal was 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 law in

holding that surcharge cannot be levied for the block assessment in respect of searches conducted prior to 01.6.2002 ?

ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in not considering the fact that the Proviso to Section 113 was admittedly clarificatory in nature and was applicable to block period, for which, surcharge is levied under the relevant Finance Act of the year, in which, search was initiated ? And

iii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in not following the judgment of the Supreme Court in the case of CIT Vs. Suresh N.Gupta [reported in 297 ITR 322]?”

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 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.

Sd/-
Assistant Registrar(C.O)

//True Copy//

Sub Assistant Registrar

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

2.The Commissioner of Income Tax Appeal,
Chennai D Bench, Chennai

3. The Commissioner of Income Tax, (Appeals)
Salem.

4. The Deputy Commissioner of Income Tax
Company Circle - 1, Salem.

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Kak(26/09/2019)