IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3.12.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case (Appeal) No.898 of 2010

Commissioner of Income Tax III,
Chennai. Appellant

Vs.

M/s.Raunaq Steel Trading P. Ltd.,
No.45/24, Venkata Maistry St.,
I Floor, Mannady, Chennai 600 001. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 30.3.2010 made in ITA No.1347/Mds/2009,and against the order passed by the Commissioiner of Income Tax(Appeals)-V, Chennai-34, dated 17/09/2008 made in ITA.NO.599 & 600/2006-07 and against the order passed by the Income Tax Officer, (OSD), Company Circle-V (3), Chennai-34 dated 26/12/06 made in PA.NO./GIR.NO.AACCRZ710B/53669-R for Assessment year 2003-04.

For Appellant : Ms.V.Pushpa
Junior Standing Counsel

For Respondent : Mr.M.P.Senthilkumar

J U D G M E N T

(Delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 30.3.2010 made in ITA No.1347/Mds/2009, for the Assessment Year 2003-2004, by raising 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 confirming the order of the Commissioner of Income Tax (Appeals) deleting the addition of Rs.2

Crores being unexplained share capital even though the assessee had not discharged the initial burden of proving the genuineness and creditworthiness of the alleged subscribers and the genuineness of the transactions?
ii) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in applying the decision of the Supreme Court dismissing the Department's Special Leave Petition in the case of CIT vs. Lovely Exports Pvt. Ltd. (216 CTR 195) which was not applicable to the facts of the case as found as a result of detailed investigation made and discussed in the assessment order?"

2. When the matter is taken up for hearing, learned Junior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. Commissioner of Income Tax III,
Chennai.

2. The Commissioner of Income Tax(Appeals)-V,
Chennai-34.

3. Income Tax Appellate Tribunal,
'B' Bench, Chennai.

4. The Income Tax Officer (OSD),
Company Circle V(3),
Chennai 600 034.

+1cc to Mr.G.Baskar, Advocate sr.100939
+1cc to Mr.M.Swaminathan, Advocate sr.100683

T.C.(A) No.898 of 2010

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