In the High Court of Judicature at Madras

Dated : 05.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.557 to 560 of 2019 & CMP.Nos.17039 to 17041 of 2019

Principal Commissioner of Income Tax, Central 1, Chennai-34. ...Appellant/Respondent

Vs

C.Kishanlal ...Respondent/Appellant

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 14.9.2018 made respectively in SP.Nos.277, 274, 275 and 278/Chny/2018 in ITA.Nos.2930, 2928, 2929 and 2931/Chny/2017 on the file of the Income Tax Appellate Tribunal, Madras 'C' Bench for the assessment years 2006-07, 2006-07, 2006-07 and 2012-13 respectively

against the order dated 11/05/2018 made in stay Petition Nos.183, 184,185 and 186/CHNY/2018 on the file of Income Tax Appellate Tribunal "C" Bench Chennai against the order dated 22/12/2017 made in stay Petition Nos.332, 333, 334, 335 on the file of the Income Tax Appellate Tribunal "C" Bench Chennai against the order of Commissioner of Income Tax Appeals-19, made in ITA 88/14-15 and in ITA 87/14-15 against the Assessment Order for PAN No.AAKPK7263K on the file of Deputy Commissioner of Income Tax, Central Circle III(3), Chennai-34 dated 27/03/2019.

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

COMMON JUDGMENT

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

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel as well as Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant – Revenue.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated 14.9.2018 made respectively in SP.Nos.277, 274, 275 and 278/Chny/2018 in ITA.Nos.2930, 2928, 2929 and 2931/Chny/2017 on the file of the Income Tax Appellate Tribunal, Madras 'C' Bench for the assessment years 2006-07, 2006-07, 2006-07 and 2012-13 respectively.

3. The Revenue has filed the above appeals on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in granting stay of recovery till the debt due to the assessee from his creditor is fully recovered by the Department in satisfaction of its arrear demand, which would have the effect of the Tribunal granting stay exceeding 180 days at a stretch, is in violation of the First Proviso to Section 254(2A) of the Income Tax Act?
>
> ii. Whether the Appellate Tribunal was right in directing the Department to recover its dues from Shri.Dharmendra Bafna, when the said dues are under litigation in a civil suit filed by him against the assessee is pending before this Court?
>
> iii. Whether the Tribunal was legally justified in dismissing the earlier two stay petitions filed by the assessee, but by this impugned order granting stay would amount reviewing its own order, when the Tribunal is not vested with the authority to review its own decision? And
>
> iv. Whether the Tribunal was correct in law in directing the Revenue to lift the bank attachment, when, as per the provisions of Section 254(2A), the Tribunal has been endowed with the power only to grant stay?"

4. The learned Senior Standing Counsel appearing for the appellant fairly submits that an identical issue was considered by us in TCA.No.444 of 2019 (PCIT Vs. M/s.Kishanlal & Sons, HUF), which related to the HUF, to which, the respondent - assessee belongs and that the said appeal was closed by judgment dated 11.7.2019 leaving the substantial questions of law open.

5. Following the said decision, these appeals are closed leaving the substantial questions of law open. Consequently, the connected CMPs are also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Mamber,
The Income Tax Appellate Tribunal,
Chennai 'C' Bench.

2.The Commissioner of Income Tax Appeals-19,
108, Mahatma Gandhi Road,
Nungambakkam Chennai-34.

3.The Joint Commissioner of Income Tax,
Central Range-III,
Chennai, New Building, 1st Floor 46/108,
Mahatma Gandhi Road,
Chennai-34.

4.The Deputy Commissioner of Income Tax,
Central Circle III(3), Chennai-34.

+1cc to Mr.T.R.Senthilkumar, Advocate Sr.67215

TCA.Nos.557 to 560 of 2019 &
CMP.Nos.17039 to 17041 of 2019

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srg 13/09/2019