IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.8.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.541 of 2011

Commissioner of Income
Tax-II, Coimbatore ...Appellant/ Respondent

Vs

Shri.K.Muthusamy ...Respondent/ Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 31.3.2010 made in IT(SS) A.No.75/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the block period from 1991-92 to 2001-02 (upto 12.10.2000)and Against the order of the Commissioner of Income Tax Appeals II,Coimbatore dated 22.03.2007 made in ITA.NO.308c/02-03 against the order of the Deputy Commissioner of Income Tax central circle II Coimbatore dated 23.10.2002 made in PAN /GIR NO.724 Assessment Year 1991-1992 to 2001-2002(Upto 12.10.2000).

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

For Respondent:M/s.G.R.Associates

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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 the learned counsel appearing for the respondent – assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 31.3.2010 made in IT(SS)A.No.75/Mds/2008 on the file

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of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the block period from 1991-92 to 2001-02 (upto 12.10.2000).

3. The appeal was admitted on 30.1.2012 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 allowing the assessee's claim of set off long term capital loss against the other undisclosed income computed in the block assessment even though, as per the provisions of the Income Tax Act, the capital gain losses can be set off only against capital gains ?
>
> ii. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in deleting the addition made on account of interest received by the partner of his capital investor in a firm for the reason that the partner is non working and the income relates to first year and Sub-Clause (b) of the Proviso to Section 158BB of the Act are applicable only to the block assessment of partnership firms and not to an individual assessment?
>
> iii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in deleting the addition made on account of interest income omitted to be added to the total income of the assessee is valid ? and
>
> iv. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in allowing the assessee's claim of bad debt of Rs.4,70,230/- even though the assessee has not fulfilled the conditions laid down in the provisions of Section 36(1)(vii) of the Income Tax Act, qualify himself to claim the bad debts ?"

4. The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue

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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. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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

2.The Commissioner of Income Tax Appeals II,Coimbatore.
3.The Deputy Commissioner of Income Tax central circle II Coimbatore

+1cc to Mr.T.R.Senthilkumar , Advocate SR.No. 70995

TCA.No.541 of 2011

A.SK(31/10/2019)
A.SK(22/11/2019)

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