IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.395 to 397 of 2012

Commissioner of Income-tax,
Chennai .. Appellant/Appellant in all Appeals

-vs-

K.K.Venkatanarasimmalu,
Prop:KKC Jewellers,
No.79/80, Bujjanna Rao,
Street, Walajapet - 632 513 .. Respondent/Respondent in all Appeals

Appeals under Section 260A of the Income-tax Act, 1961, against the common order dated 18.04.2012, on the file of the Income Tax Appellate Tribunal, 'C' Bench, Chennai in IT(SS)A No 115/Mds/2007; C.O.No.102/Mds/2007 in IT(SS)A No.115/Mds/2007; and IT(SS)A No.8/Mds/2010 for the block period 1988-89 to 1998-99, against the order of the commissioner of Income Tax (Appeals)-IX, Chennai-34 in ITA No.25/09-10 dated 30/02/09 against the proceedings of the Assistant commissioner of Income Tax Circle I, Vellore dated 15/7/2008 for the assessment year 1988-89 to 1998-1999 and against the proceedings of the commissioner of Income Tax(Appeals) Chennai-34 in ITA No.376/99-2000, ITA No.169/2005-06 dated 28/2/07 and against the (Income Tax Department) Assistant Commissioner of Income Tax, Vellore dated 28/1/2000 for the assessment year 1988-89 to 1998-1999.

For Appellant (In all Appeals) : Ms.S.Premalatha, Junior Standing Counsel
: for Mr.M.Swaminathan, Senior Standing Counsel

For Respondent (In all Appeals) : Ms.G.Vardini Karthik

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COMMON JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

These appeals filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, are directed against the common order dated 18.04.2012, passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, in IT(SS)A No 115/Mds/2007; C.O.No.102/Mds/2007 in IT(SS)A No.115/Mds/2007; and IT(SS)A No.8/Mds/2010 for the block period 1988-89 to 1998-99.

2.The above appeals were admitted, on 22.01.2013, on the following substantial questions of law:-

"T.C.A.Nos.395 and 397 of 2012:-

(i) Whether under facts and circumstances of the case, the Income Tax Appellate Tribunal was right in dismissing the appeal preferred by the Revenue as infructuous, in view of its allowing the cross objection filed by the asseeessee, though the issue raised the cross objection are not appealable orders before the first appellate authority?

(ii) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in setting aside the block assessment and consequently holding that the appeal filed by the Revenue against the order of the Commissioner of Income Tax (Appeal) is infructuous?

(iii) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in not adjudicating the grounds of appeal of the Revenue, that the Commissioner of Income Tax (Appeal) erred in deleting the entire additions made by the assessing officer against the investment made in shares of companies in the appeal of the assessee against the assessing officer's order, giving effect to the earlier order of the Commissioner of Income Tax (Apeals).

T.C(A) Nos.396 of 2012:-

(i) Whether under facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the block assessment under Section 158 BC was completed without jurisdiction by the Assessing Officer?

(ii) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the search carried out by the authorized officers was not warrant specific or premises specific and therefore the block assessment under Section 158 BC is void ab initio?

(iii) Whether on the facts and in the circumstances of the case, the Income tax Appellate Tribunal was right in law in deciding to go into the validity of the action taken under Section 132(1) of the Income Tax Act, 1961.

(iv) Whether the Tribunal was right in law to permit the assessee to enlarge the scope, ambit and complexion of the appeal in the grab of raising additional grounds, specifically when such grounds do not fall within the scope of section 253 of the Income Tax Act, since the issue of examining the validity of search could not be taken before the Appellate Authority when no specific appeal is provided in the Act?"

3.Heard Ms.S.Premalatha, learned Junior Standing Counsel, for Mr.M.Swaminathan, Senior Standing Counsel for the appellant and Ms.G.Vardini Karthik, learned counsel for the respondent.

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 08.08.2019 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 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 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.

Sd/-
Assistant Registrar(Insp cell)

//True Copy//
Sub Assistant Registrar

abr

To

1.The Assistant Commissioner of Income-tax,
Vellore.

2.The Commissioner of Income Tax (Appeals),
121, Mahatma Gandhi Road, Chennai-600 034.

3.The Commissioner of Income Tax, Vellore

4.The Commissioner of Income Tax (Appeals)-IX,
121, Mahatma Gandhi Road, Chennai-600 034.

5.The Income Tax Appellate Tribunal,
'C' Bench, Chennai.

+1cc to Mr.M.Swaminathan, Advocate SR.72335
+1cc to M/s.J.Sreevidhya, Advocate SR.71916

RK(CO)
CB(04/11/2019)