IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.8.2019

CORAM :

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

TAX CASE APPEAL NOS.410 TO 412 OF 2012

Commissioner of Income Tax,
Central-III, Chennai-34 ...Appellant/Appellant

Vs

Shri.M.K.Rajagopalan ..Respondent/Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 09.5.2012 made in ITA.Nos.2039 to 2041/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench respectively for the assessment years 2005-06, 2006-07 and 2008-09.

T.C.A. 410 to 412/2012:

As the against the Assistant Commissioner of Tax, Central Circle III(4) Chennai PAN No. AAEPR4969B Assessment year 2008-2009 order dated 14.09.2011 as against the Commissioner of Income Tax (Appeals)II Chennai PAN No. AAEPR4969B Assessment year 2008-2009 order dated 14.09.2011 as against the order of the Commissioner of Income Tax (Appeals)II Chennai PAN No. AAEPR4969B Assessment year 2006-2007 order dated 14.09.2011 as against the order of the Commissioner of Income Tax (Appeals)II Chennai PAN No. AAEPR4969B, Assessment year 2005-2006 order dated 14.09.2011 as against the order of the Assistant commissioner of Income Tax Central Circle III(4) Chennai PAN No. AAEPR4969B, Assessment year 2006-2007 order dated 25.06.2010 as against the order of the Assistant Commissioner of Income Tax Central Circle III(4) Chennai PAN AAEPR4969B Assessment year 2005-2006 order dated 25.06.2010 as against the order of the Assistant Commissioner of Income Tax Central Circle III(4) Chennai PAN No. AAEPR4969B Assessment year 2008-2009 order dated 21.06.2010 as against the order of the Government of India, Income Tax Department the Assistant Commissioner of Income Tax, Central Circle III(4) Chennai PAN No. GIR AAEPR4969B Assessment year 2008-2009 order dated 29.12.2009 as against the order of the Income Tax Department the Assistant Commissioner of Income Tax, Central Circle III(4) Chennai PAN/GIR No. AAEPR4969B

Assessment year 2006-2007 order dated 29.12.2009 as against the order of the Assistant Commissioner of Income Tax, Central Circle III(4) Chennai PAN No. GIR No. AAEPR4969B Assessment year 2005-2006 order dated 29.12.2009.

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

For Respondent:Mr.B.Shyam

COMMON JUDGMENT

(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 Mr.B.Shyam, learned counsel appearing for the respondent - assessee.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order dated dated 09.5.2012 made in ITA.Nos.2039 to 2041/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench respectively for the assessment years 2005-06, 2006-07 and 2008-09.

3. The appeals were admitted on 11.12.2012 (TCA.Nos.410 & 411 of 2012) and 01.2.2013 (TCA.No.412 of 2012) on the following substantial questions of law :

> "TCA.Nos.410 & 411 of 2012:
>
> Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in canceling the penalty levied under Section 271(1)(c) when the assessee has not admitted the relevant income in his original return, but admitted the same in the return of income filed post search ?
>
> TCA.No.412 of 2012 :
>
> Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in canceling the penalty levied under Section 271AAA when the assessee has not paid the taxes together with interest in respect of undisclosed income as stipulated in Sub-Clause (iii) of Section 271AAA of the Income Tax Act, 1961?"

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 08.8.2019 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 the respective cases 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 in the respective cases 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.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

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

2.The Assistant Commissioner of Income Tax
Central Circle III(4) Chennai

3.The Commissioner of Income Tax (APPEals)II
Chennai

+1 CC to Mr.T.R.Senthilkumar, Advocate sr 71335.

TCA.Nos.410 to 412 of 2012

PP(CO)
SP(31/10/2019)