In the High Court of Judicature at Madras

Dated : 27.08.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.755 to 757 of 2015

Commissioner of Income Tax,
Central III, 108, Mahatma Gandhi Road,
Chennai - 600 034. ...Appellant/Respondent

Vs

Mr.A.B.S.Sanjjay ...Respondent/Appellant

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 24.01.2014 made in ITA.Nos.1691, 1692 and 1693/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment years 2003-04, 2004-05 and 2005-06 against the order dated 29/07/2013 made in ITA No.235/2010-11, ITA No.236/2010-11, and ITA No.237/2010-11 on the file of the Commissioner Income Tax(Appeals) Salem, for the assessment year 2003-04, 2004-05 and 2005-06 against the order dated 31.12.2007 made in PAN/GIR No.AGQPS1315L on the file of the Deputy Commissioner of Income Tax Circle I, Salem for the assessment year 2005-06 against the order dated 31/12/2007 made in PAN/GIR No.AGQPS1315L/CCPS095 on the file of the Assistant Commissioner of Income Tax(I/C) central Circle, Salem for the assessment year 2003-04 against the order dated 31.12.2010 made in PA No./GIR No.AGQPS1315L/CCPS095 on the file of the Assistant Commissioner of Income Tax (I/C) Central Circle salem for the assessment year 2004-05.

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

For Respondent: Mr.G.Baskar

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.G.Baskar, 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 24.01.2014 made in ITA.Nos.1691, 1692 and 1693/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment years 2003-04, 2004-05 and 2005-06.

3.The appeals were admitted on 13.10.2015 on the following substantial questions of law :

> "(i) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in quashing the assessment made under Section 153A, as there are no seized materials to make fresh assessments?
>
> (ii) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in quashing the assessment made under Section 153A, when there is no regular assessment, but only intimation done under Section 143(1) of the Act for the assessment years 2003-04 and 2004-05?
>
> (iii) Whether on the facts and circumstances of the case, the Tribunal is correct in not appreciating that the new search assessment procedure under Section 153A of the Act wherein the 'total income' is to be determined whereas in the old search assessment procedure, the 'undisclosed income' is to be determined? and
>
> (iv) Whether in the facts and circumstances of the case, the Tribunal is correct in holding that any assessment under Section 153A can be done only based on incriminating material ignoring the non-obstante clause which excludes reopening under Section 147?"

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.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

cse

To

1.The Income Tax Appellate Tribunal, Chennai 'D' Bench,
Chennai.

2. The Commissioner of Income Tax,
Central III, 108 Mahatma Gandhi Road, Chennai-34

3.The Commissioner of Income Tax (Appeals), Salem

4. The Deputy Commissioner of Income Tax Circle I
Salem.

5. The Assistant Commissioner Income Tax,
Central Circle, Salem

+1cc to Mr.T.R.Senthilkumar, Advocate SR.No.73606

+1cc to Mr.G.Baskar, Advocate SR.No.73843

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VBA(CO)
GMY(25/10/2019)