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.818 to 827 of 2015

Commissioner of Income Tax,
Central I, 108, Mahatma Gandhi Road,
Chennai - 600 034. ...Appellant in all appeals

Vs

Shri P.Sathyanarayanan ...Respondent in all appeals

APPEALS under Section 260A of the Income Tax Act, 1961 , 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006.

TCA No. 818 of 2015 arising upon the order of the Income Tax Appellate Tribunal, Madras A Bench, in ITA No.717 (Mds)/ 2008,dated 21.09.2011 Assessment year 2000-2001, Appeal filed by the assessee Arising upon the order of the Commissioner of Income Tax Appeals I, Chennai, in ITA No.169/06-07, dated 07.01.2008 Assessment year 2000-2001 Against the Search assessment order dated 29.12.2006, of the Assistant Commissioner of Income Tax, Central Circle I (3) Chennai - PAN ABGPS8413E.

TCA No.819 of 2015 arising upon the order of the Income Tax Appellate Tribunal, Madras A Bench, in ITA No.718 (Mds)/ 2008,dated 21.09.2011 Assessment year 2003-04, Appeal filed by the assessee Arising upon the order of the Commissioner of Income Tax Appeals I, Chennai, in ITA No.172/06-07, dated 07.01.2008 Assessment year 2003-04 Against the Search assessment order dated 29.12.2006, of the Assistant Commissioner of Income Tax, Central Circle I (3) Chennai - PAN ABGPS8413E.

TCA No.820 of 2015 arising upon the order of the Income Tax Appellate Tribunal, Madras A Bench, in ITA No.719 (Mds)/ 2008,dated 21.09.2011 Assessment year 2004-05, Appeal filed by the assessee Arising upon the order of the Commissioner of Income Tax Appeals I, Chennai, in ITA No.173/06-07, dated 07.01.2008 Assessment year 2004-05 Against the Search assessment order dated 29.12.2006, of the Assistant Commissioner of Income Tax, Central Circle I (3) Chennai - PAN ABGPS8413E.

TCA No.821 of 2015 Arising upon the order of the Income Tax Appellate Tribunal, Madras A Bench, in ITA No.891 (Mds)/ 2008,dated 21.09.2011 Assessment year 1999-2000, Appeal filed by the Revenue Arising upon the order of the Commissioner of Income Tax Appeals I, Chennai, in ITA No.168/2006-07, dated 07.01.2008 Assessment year 1999-2000 Against the Search assessment order dated 29.12.2006, of the Assistant Commissioner of Income Tax, Central Circle I (3) Chennai - PAN ABGPS8413E.

TCA No.822 of 2015 arising upon the order of the Income Tax Appellate Tribunal, Madras A Bench, in ITA No.892 (Mds)/ 2008,dated 21.09.2011 Assessment year 2000-2001, Appeal filed by the Revenue Arising upon the order of the Commissioner of Income Tax Appeals I, Chennai, in ITA No.169/Mds/2006-07, dated 07.01.2008 Assessment year 2000-2001 Against the Search assessment order dated 29.12.2006, of the Assistant Commissioner of Income Tax, Central Circle I (3) Chennai - PAN ABGPS8413E.

TCA No.823 of 2015 arising upon the order of the Income Tax Appellate Tribunal, Madras A Bench, in ITA No.893 (Mds)/ 2008,dated 21.09.2011 Assessment year 2001-2002, Appeal filed by the Revenue Arising upon the order of the Commissioner of Income Tax Appeals I, Chennai, in ITA No.170/Mds/2006-07, dated 07.01.2008 Assessment year 2001-2002 Against the Search assessment order dated 29.12.2006, of the Assistant Commissioner of Income Tax, Central Circle I (3) Chennai - PAN ABGPS8413F.

TCA No.824 of 2015 arising upon the order of the Income Tax Appellate Tribunal, Madras A Bench, in ITA No.894 (Mds)/ 2008,dated 21.09.2011 Assessment year 2002-2003, Appeal filed by the Revenue Arising upon the order of the Commissioner of Income Tax Appeals I, Chennai, in ITA No.171/Mds/2006-07, dated 07.01.2008 Assessment year 2002-2003 Against the Search assessment order dated 29.12.2006, of the Assistant Commissioner of Income Tax, Central Circle I (3) Chennai - PAN ABGPS8413F.

TCA No.825 of 2015 arising upon the order of the Income Tax Appellate Tribunal, Madras A Bench, in ITA No.895 (Mds)/ 2008,dated 21.09.2011 Assessment year 2003-2004, Appeal filed by the Revenue Arising upon the order of the Commissioner of Income Tax Appeals I, Chennai, in ITA No.172/Mds/2006-07, dated 07.01.2008 Assessment year 2003-2004 Against the Search assessment order dated 29.12.2006, of the Assistant Commissioner of Income Tax, Central Circle I (3) Chennai - PAN ABGPS8413E.

TCA No.826 of 2015 arising upon the order of the Income Tax Appellate Tribunal, Madras A Bench, in ITA No.896 (Mds)/ 2008,dated 21.09.2011 Assessment year 2004-2005, Appeal filed by the Revenue Arising upon the order of the Commissioner of Income

Tax Appeals I, Chennai, in ITA No.173/Mds/2006-07, dated 07.01.2008 Assessment year 2004-2005 Against the Search assessment order dated 29.12.2006, of the Assistant Commissioner of Income Tax, Central Circle I (3) Chennai – PAN ABGPS8413E.

TCA No.827 of 2015 Arising upon the order of the Income Tax Appellate Tribunal, Madras A Bench, in ITA No.897 (Mds)/ 2008,dated 21.09.2011 Assessment year 2005-2006, Appeal filed by the Revenue Arising upon the order of the Commissioner of Income Tax Appeals I, Chennai, in ITA No.174/2006-07, dated 07.01.2008 Assessment year 2005-2006 Against the Search assessment order dated 29.12.2006, of the Assistant Commissioner of Income Tax, Central Circle I (3) Chennai – PAN ABGPS8413F.

For Appellant : Mr.T.R.Senthilkumar,
Senior Standing Counsel
assisted by
Ms.K.G.Usharani, Standing Counsel

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 21.09.2011 made in ITA.Nos.717 to 719 and 891 to 897/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment years 2000-01, 2003-04, 2004-05 and 1999-2000 to 2005-06.

3.TCA.Nos.818 to 820 of 2015 were admitted on 30.11.2015 on the following substantial questions of law :

> "1)Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law, in annulling the search assessments for the assessment years 2000-01, 2003-04 and 2004-05 made under Section 153C read with Section 153A of the Income Tax Act?
>
> 2)Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that satisfaction note is to be recorded for the purpose of invoking Section 153C

especially when the assessing officer, who dealt with the assessment of 'searched person' and that of the other 'non-searched person' is one and the same?"

4.TCA.Nos.821 to 827 of 2015 were admitted on 30.11.2015 on the following substantial questions of law :

> "1)Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in in holding that the belated Return of Income filed under Section 153C read with Section 153A is an invalid return and the same cannot be acted upon for the purpose of make assessment?
>
> 2)Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the additions made by the assessing officer based on the materials seized during search and the information available subsequent to issuance of notice?"

5.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.

6. 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(CCC)

True Copy

Sub-Assistant Registrar

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To

1.The Income Tax Appellate Tribunal, Chennai 'A' Bench.
2.The Commissioner of Income Tax Appeals I, Nungambakkam
  Chennai 34.
3.The Assistant Commissioner of Income Tax, Central Circle I(3)
  Chennai

+1 CC to Mr.T.R.Senthilkumar, Advocate sr 73603
+1 CC to Mr.G.Baskar, Advocate sr 73842.

TCA.Nos.818 to 827 of 2015

RSK(CO)
SP(26/11/2019)