IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM

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

Tax Case Appeal No.451 of 2013

Commissioner of Income-tax,
Coimbatore. .. Appellant/Appellant

-vs-

M/s.Kirtilal Kalidas Jewellers P Ltd.,
601, Raja Street,
Coimbatore-641 001.
PAN: AADCK2544B .. Respondent/Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 05.09.2012, on the file of the Income-tax Appellate Tribunal 'A' Bench, Chennai, in I.T.A.No.564/Mds/2012 for the assessment year 2008-09 against the Order of the Commissioner of Income Tax (Appeals), Coimbatore, dated 16.12.2011 and made in AADCK 2544B and against the Order of the Deputy Commissioner of Income Tax Company Circle -I(3), Coimbatore, dated 31.12.2010 for the Assessment Year 2008-09.

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

For Respondent : No appearance

JUDGMENT

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

This appeal filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, is directed against the order dated 05.09.2012, passed by the Income-tax Appellate Tribunal 'A' Bench, Chennai, in I.T.A.No.564/Mds/2012 for the assessment year 2008-09.

2.The above appeal was admitted, on 08.11.2013, on the following substantial questions of law:-

"(i) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that Section 40A(3) of the Income Tax Act is not applicable for the old jewellery and diamond purchased by the assessee from its customers?

(ii) Whether based on the material available before the Income Tax Appellate Tribunal, it could have come to the conclusion that when the assessee showed purchase of jewellery in cash in its cash book, the actual scenario was that it was only a credit purchase?

(iii) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that the disallowance ought not to have been made on the ground that purchases is non genuine just for the reasons that purchases effected from certain parties did not carry full address?"

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Junior Standing Counsel for the appellant.

4.The learned Senior Standing Counsel for the appellant submits that the above appeal is 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 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.

abr



Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Commissioner of Income-tax,
Company Circle-I(1), Coimbatore.

2.The Commissioner of Income Tax (Appeals)-I,
Company Circle-I(1), Coimbatore.

3.The Income-tax Appellate Tribunal 'A' Bench,
Chennai.

+1cc to Mr.T.R.Senthil Kumar, Advocate, SR.No.72310

T.C.A.No.451 of 2013

Kak(24/10/2019)