In the High Court of Judicature at Madras

Dated : 30.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.253 to 256 of 2016

The Commissioner of Income Tax, Central Circle, Chennai-34. ...Appellant/Respondent in TCA.Nos.253 to 255/2016
...Appellant/ Appellant(in TCA.256/16)

Vs

M/s.Rm.K.Viswanatha Pillai & Sons, Tirunelveli-627003. ...Respondent / Appellant (in TCA.253 to 255/16)
...Respondent/Respondent in (in TCA.256/16)

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 05.2.2015 made in ITA.Nos.1065 to 1067 and 1093/ Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench respectively for the assessment years 2003-04 to 2005-06 and 2003-04 and against the Order passed by the Commissioner of Income-Tax, Appeals(Central)-I Chennai-34 dated 31/01/2014 made in ITA.No.240/10-11 241,242 and against the order passed by the deputy Commissioner of Income Tax, Central Circle-IV(1), Chennai dated 30/12/2010 made in PAN/GIR.No.AABFRI307C for the Assessment year 2003-2004,2004-2005, 2005-2006 respectively.

For Appellant:Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani, SC(in all cases)
For Respondent:Mr.R.Venkatanarayanan for M/s.Subbaraya Aiyer Padmanabhan

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.R.Venkatanarayanan, 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 05.2.2015 made in ITA.Nos.1065 to 1067 and 1093/ Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench respectively for the assessment years 2003-04 to 2005-06 and 2003-04.

3. The appeals were admitted on 20.4.2016 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 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
>
> (iii) 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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

2.The Commissioner of Income Tax, Central Circle,
Chennai-34

3.The Commissioner of Income Tax(Appeals
Central-I Chennai-34

4.The Deputy Commissioner of Income Tax,
Central Circle-Iv(1) Chennai

+1 cc to Mr.T.R.Senthil kumar Advocate sr 75716
+1 cc to Mr.Subbaraya Aiyar Padmanabhan Advocate sr75935

TCA.Nos.253 to 256 of 2016

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