IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

T.C.A.NO.193 OF 2018

Commissioner of Income Tax
Chennai. ... Appellant

Vs.

Dr.S.Venkatesh ... Respondent

PRAYER: Tax Case Appeal filed under Section 260A of Income Tax Act, 1961, against the order dated 15.07.2016 in I.T.A.No.1805/Mds/2014 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench for the assessment year 2007-08 and against the order passed by the Commissioner of Income Tax (Appeals) -V, Chennai -34, dated 08/01/2014 made in ITA.No.57/09-10(A)-V and against the order passed by the Deputy Commissioner of Income Tax, Circle -V, Chennai, dated 24/12/2009 made in PAN/GIR.No.ABRPV4773H, for Assessment year 2007-08.

For Appellant : Mr.T.Ravikumar

JUDGMENT
(Judgment of the Court was made by N.KIRUBAKARAN, J.)

This Tax Case Appeal has been filed against the order of the Income Tax Appellate Tribunal dated 15.07.2016 passed in I.T.A.No.1805/Mds/2014 dismissing the appeal filed by the Department of Revenue against the order of the Commissioner of Income Tax (Appeals) by which the appeal filed by the assessee was partly allowed.

2. Heard Mr.T.Ravikumar, learned counsel for the appellant.

3. This Tax Case Appeal is admitted on the following substantial questions of law:

> "1.Whether on the facts and in the circumstances of the case the tribunal was right in holding that deleting the addition made of on account of bad debt by merely relying on the provisions of Section 36(i)(vii) read with the decision of the Apex Court in the case of TRF Ltd. by wrongly accepting the assessee's contention that the bad debts were written off.
>
> 2.Whether on the facts and in the circumstances of the case the tribunal was right in not considering the issue relating to unexplained credit with respect to the credit entries under the head transfer of loans and advances, transfer of advance from customer and others.
>
> 3.Whether on the facts and in the circumstances of the case the tribunal was right in holding that there is no concession of liability and provisions of section 41(1) cannot be invoked even though the time limit to reclaim the amounts by the creditors had lapsed under the Limitation Act.
>
> 4.Whether on the facts and in the circumstances of the case the tribunal was right in holding that there is cessation of liability and provisions of section 41(1) cannot be invoked even though the assessee had credited the unclaimed amounts to capital account and had made a unilateral write off of the liability.
>
> 5.Whether on the facts and in the circumstances of the case the tribunal was right in deleting the addition of unexplained credit with respect to the gift received from the assessees father even though the assessee had failed to prove the credit worthiness of the donor and genuineness of the gift."

4. Mr.T.Ravikumar, learned counsel appearing on behalf of the appellant would submit that the tax effect in this case is

less than Rs.1 Crore and is covered by Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, Delhi. As per the said circular, the monetary limit to file an appeal before the High Court is fixed at Rs.1 Crore. In this case, tax effect is less than Rs.1 Crore and therefore, the appeal has to be dismissed.

5. This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the Circular, which prescribes monetary limit for filing appeal. Paragraph No.2 is usefully extracted as follows:

> "2. As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

S.No.	Appeals / SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appeallate Tribunal	50,00,000
2.	Before High Court	1,00,00,000
3.	Before Supreme Court	2,00,00,000

6.In view of the submissions made by the learned Senior Standing Counsel appearing on behalf of the appellant and also in view of the Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Delhi, this Tax Case Appeal is dismissed on account of tax effect. However, the substantial questions of law framed are left open. In the event the tax effect is above the 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Income Tax
Chennai.

2.The Income Tax Appellate Tribunal,
Madras 'C' Bench, Chennai.

3.The Commissioner of Income Tax(Appeals) -V,
Chennai -34.

4.The Deputy Commissioner of Income Tax,
Circle -V, Chennai.

+1 cc to M/s.J.Narayanaswamy, Advocate Sr.No. 99553

AKM/08.01.2020/4P-6C /

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