In the High Court of Judicature at Madras

Dated : 02.1.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice N.SATHISH KUMAR

Tax Case Appeal No.25 of 2018

Principal Commissioner of Income
Tax-I, Coimbatore ...Appellant/Respondent

Vs

Shri I.Ashok Kumar ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 31.5.2017 in ITA No.3371/Mds/2016 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench for the assessment year 2013-14, against the order of the Commissioner of Income Tax (Appeals)-I, Coimbatore dated 26/10/2016 in Appeal No.214/15-16 against the order of the Income Tax Officer, Corporate Ward-4, Coimbatore dated 22/03/2016 in PAN No.AHQPA2689G/Corp. Ward-4/2013-14 against the assessment order of the Commissioner of Income Tax (Appeals) -I, Coimbatore dated 02/01/15 in Appeal No.194/14-15 for the assessment year 2013-14.

For Appellant : Mr.T.R.Senthilkumar, SSC & Ms.K.G.Usharani, JSC

For Respondent : Mr.S.Sridhar

Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned Standing Counsel for the appellant.

2. This appeal by the Revenue challenges the order passed by the Income Tax Appellate Tribunal, which decided the issue in favour of the assessee. The appeal is filed by the Revenue by raising the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in deleting the penalty by relying on the ratio laid down in the case of Manjunatha Cotton and Ginning Factory and

SSA Emerald Meadows when the facts of the case are clearly distinguishable from the relied upon cases ?

ii. Whether the Appellate Tribunal is justified in deleting the penalty for omission to explicitly mention that penalty proceedings was initiated for furnishing inaccurate particulars or for concealment of income, when it is proved beyond reasonable doubt that the assessee has concealed his come by not filing return of income as per Section 139(1) of the Income Tax Act? And

iii. Whether, on the facts and circumstances of the case, the Tribunal was justified in deciding the appeals against the Revenue on the basis of notice issued under Section 274 without taking into consideration that the assessee's case squarely falls within the first limb of the provisions of Section 271(1)(c) for concealing particulars of income? ”

3. The Revenue seeks to withdraw this appeal on account of low tax effect in terms of Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes.

4. In the light of the above, the appeal is dismissed as withdrawn and the substantial questions of law raised are left open. In the event the tax effect is above the threshold limit fixed in the said circular under exceptional clauses mentioned in the 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(CS-IV)

//True copy//

Sub Assistant Registrar

RS

To

1. The Income Tax Appellate Tribunal, Madras 'C' Bench.

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

3. The Income Tax Officer, Corporate Ward -4,
   67A, Race Course Road, Coimbatore-641 018.

4. The principal Commissioner of Income Tax-I, Coimbatore.

+1cc to Mr.T.R.Senthil Kumar, Advocate SR.No.206

+1cc to Mr.S.Sridhar, Advocate SR.No.358

TCA.No.25 of 2018

GJ(CO)
GMY(21/02/2019)