IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

CORAM :

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

T.C.A.No.323 of 2018

Commissioner of Income Tax Central I,
No.108, Mahatma Gandhi Road,
Chennai ... Appellant

Vs

Shri.M.Kanthilal ...Respondent

PRAYER: Tax Case Appeal filed under Section 260A of Income Tax Act, 1961 against the order dated 20.08.2013 in I.T.A.No.718/Mds/2013 on the file of the Income Tax Appellate Tribunal Chennai 'B' Bench for the assessment year 2006-07, preferred against the order of the commissioner of Income Tax (Appeals)-1, Chennai-34 dated 04-01-2013 made in ITA No.411/07-08 against the order dated 31-12-2007 passed by the Assistant Commissioner of Income Tax, Central Circle-I(4), Chennai for the Assessment year 2006-07.

For Appellant : Mr.T.R.Senthil Kumar

For Respondent : Mr.R.Sivaraman

J U D G M E N T

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

This tax case appeal has been filed against the order of the Income Tax Appellate Tribunal dated 20.08.2013 in I.T.A.No.718/Mds/2013 in 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 allowed.

2.Heard Mr.T.R.Senthil Kumar, learned Counsel for the appellant.

3.This tax case appeal is admitted on the following substantial questions of law:

"(i)Whether the ITAT was right in deleting the addition of Rs.26,06,666/- made on account of unexplained jewellery disclosed under Section 132 (4) when it was retracted without any evidence to prove his claim?

(ii)Whether the ITAT was right in directing to recompute interest u/s.234B after adjustment of cash seized during search without considering the CBDT's clarification in F.No.256/105/2005 dated 13-07-2006 which do not permit application of cash seizure against the advance tax liability?

(iii)Whether the ITAT was right in directing to recompute interest u/s.234B after reducing the cash seized during search by relying on the ITAT's decision in the case of V.Varadharajan which has not been accpeted by department's appeal pending before the High Court?"

4.Mr.T.R.Senthil Kumar, 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 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(CS-VI)

//True Copy//
Sub Assistant Registrar

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To

1.Commissioner of Income Tax Central I,
No.108, Mahatma Gandhi Road,
Chennai.

2.The Income Tax Appellate Tribunal,
B Bench, Chennai.

3.The Deputy Commissioner of Income Tax,
Central Circle-1(4), Chennai-34.

4.The Commissioner of Income Tax (Appeals)-1,
Chennai-34.

5.The Assistant Commissioner of Income Tax,
Central Circle-I(4), Chennai.

T.C.A.No.323 of 2018

PM(CO)
CB(04/02/2020)