In the High Court of Judicature at Madras

Dated : 28.08.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.388 and 389 of 2018

Commissioner of Income Tax,
Central IV, 108, Mahatma Gandhi Road,
Chennai. ...Appellant both T.C.A

Vs

Shri S.Jeyachandran ...Respondent in both T.C.A.

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 28.03.2014 made in ITA.No.2246/Mds/2013 and C.O.No.24/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2006-07 against the order of the Commissioner of Income Tax (A) © II, Chennai in I.T.A. No. 84/2013-2014 dated 20.09.2013 AY 2006-2007 against the order passed by the Assistant Commissioner of Income Tax dated 21.03.2013 for the assessment year 2006-2004 against the order dated 30.12.2009 made in PAN/GIR.No. AAFPN9178A for the assessment year 2006-2007.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani, SC(Both Cases)

For Respondent: Mr.G.Baskar(Both Cases)



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.G.Baskar, 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 28.03.2014 made in ITA.No.2246/Mds/2013 and C.O.No.24/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2006-07.

3.The appeals were admitted on 24.07.2018 on the following substantial questions of law :

> "1.Whether the Appellate Tribunal is correct in deleting penalty ignoring facts that this case is squarely covered by explanation 5A to Section 271(1) [c] of the IT Act?
>
> 2.Whether in the facts and circumstances of the case and in law, the ITAT is justified in deleting the penalty ignoring the judgment of the Apex Court in the case of MAK DATA Pvt Ltd reported in (38 Taxman.com 448)?
>
> 3.Whether in the facts and circumstances of the case the finding of ITAT that the Rs.2 crores surrendered u/s. 132(4) is perverse in so far as it was admitted separately through a letter and not u/s. 132(4) of the IT Act?"

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(CO)

True Copy

Sub-Assistant Registrar

To

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

2.The Commissioner of Income Tax(A)(C)II
Chennai

3.The Assistant Commissioner of Income Tax
Central Circle IV(2) Mahatma Gandhi Road
Chennai 34.

+1 CC to Mr.T.R.Senthilkumar, Advocate sr 74187
+1 CC to Mr.G.Baskar, Advocate sr 74247.

TCA.Nos.388 and 389 of 2018

RK(CO)
SP(24/10/2019)