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.528 and 529 of 2018

Principal Commissioner of Income Tax 3,
No.63, Race Course Road, Coimbatore. ...Appellant in both cases

Vs

M/s.C.S.Garments,
42, Karumarampalayam, Mannarai,
Tirupur - 641 607.
PAN: AACFC0719J ...Respondent in both cases

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 27.12.2017 made in ITA.No.51 and 299/Mds/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2013-14 against the Order dated 04.11.2016 made in ITA No.159/16-17 on the file of the Commissioner of Income Tax (Appeals)-3, Coimbatore against the Order dated 31.03.2016 made in PA No./GIR No.AACFCO7195 on the file of the Deputy Commissioner of Income Tax Circle-1, Tiruppur for the Assessment Year 2013-14.

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

For Respondent: Mr.R.Sivaraman

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.Sivaraman, 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 27.12.2017 made in ITA.No.51 and 299/Mds/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2013-14.

3.The appeals were admitted on 06.08.2018 on the following substantial questions of law :

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"1 Whether the Income Tax Appellate Tribunal is justified in restricting the addition to Rs.90,05,450/- as against Rs.1,40,06,450/- made by the Assessing Officer without considering the fact that the sundry creditors claimed in the books of accounts is bogus ?

2. Whether the Income Tax Appellate Tribunal is justified in restricting the addition to Rs.90,05,450/- without considering that during the course of scrutiny proceedings, the Assessing Officer recorded statements under Section 131 of the Income Tax Act from the sundry creditors and it was proved that the creditors were bogus ?

3. Whether the Income Tax Appellate Tribunal is justified in deleting the addition without considering the fact that the cash purchases were made by violating the provisions under Section 40A (3) of the Income Tax Act ? and

4. Whether Tribunal is correct in holding that the Assessing Officer made casual reference about Section 40A(3) of the Act regarding the use of cash for purchase of raw material in the grey market whereas the purchases are admittedly by the assessee made in the grey market and preponderance of probability clearly indicates that the purchases are made in cash ?"

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.

cse

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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

2. The Commissioner of Income Tax
(Appeals)-3, Coimbatore

3. The Deputy Commissioner of
Income Tax Circle-1,
Tiruppur

+1cc to Mr.T.R.Senthil Kumar, Advocate, SR.No.74191

TCA.Nos.528 and 529 of 2018

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