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 No.80 of 2018

Principal Commissioner of Income Tax
Central 2, No.108, Mahatma Gandhi Road,
Chennai. ...Appellant

Vs

Shri.C.Sampath Kumar
PAN: 24704-S ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 20.04.2017 made in ITA.No.54/MDS/2005 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the Block assessment years 1986-87 to 1995-96 and part of 1996-97 against the Order of the Deputy Commissioner of Income Tax Central Circle 11(4), Chennai, dated 31.03.2005 under sections 158 BD of the Income Tax Act 1961 made in PAN No.24704-S.

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

For Respondent: Mr.A.S.Sriraman for Mr.S.Sridhar

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 counsel appearing for the appellant/revenue and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned counsel appearing for the respondent/assessee.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 20.04.2017 made in ITA.No.54/MDS/2005 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the Block assessment years 1986-87 to 1995-96 and part of 1996-97.

3.The appeal has been filed by raising the following substantial questions of law :

> "1.Whether the ITAT is justified in law in deleting the addition made by the assessing officer towards undisclosed salary income and difference of credit balance in his account in the books of company M/s.Domore Tools and Accessories Pvt. Ltd., on the ground that these additions do not emanate from Search material, by ignoring the fact that these additions are attributable to evidence found during the course of search operation and the assessee had not filed return of income for any of the assessment years involved in the block period?
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> 2.Whether the ITAT is justified in law in deleting the addition made by the assessing officer towards undisclosed income on account of repayment of loan to Shri.Nadathur Varadhan, on the ground that the addition on this account, if any, can be made only in the hands of Shri.A.N.Dyaneswaran, by ignoring the fact that the same Hon'ble ITAT has deleted the addition made on this account, on substantial basis, in the case of Shri.A.N.Dyaneswaran?
>
> 3.Whether on the facts and circumstances of the case, the Hon'ble ITAT is justified in law in deleting the addition made by the assessing officer towards undisclosed income on account of commission received by the assessee of Rs.13,56,340/- on the ground there is no material to indicate the same, whereas, as per para 6 of the assessment order, the addition was based on analysis of the seized documents?
>
> 4.Whether on the facts and circumstances of the case, the ITAT is justified in law in deleting the addition made by the assessing officer towards undisclosed income of Rs.30 lakhs of transaction entered into by Shri.Palaniappan Ramasamy with the assessee, by ignoring the evidence of stamped receipts found with the assessee at the time of search?
>
> 5.Whether on the facts and circumstances of the case, the ITAT is justified in law in deleting the addition made by the assessing officer towards undisclosed income on account of money held in the form of foreign currency at the time of search, by

ignoring the fact that the assessee failed to prove the source of such money with documentary evidence and also by ignoring the presumptive provisions of Section 132(4A) of I.T.Act?"

4.The learned Senior Standing Counsel for the appellant submits that the above appeal is 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 this case is less than the threshold limit.

5.In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect 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 appeal to be heard and decided on merits. No costs.

cse

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Deputy Commissioner of Income Tax
Central Circle 11(4), Chennai - 34.

+1cc to Mr.T.R.Senthil Kumar, Advocate, SR.No.74179
+1cc to Mr.S.Sridhar, Advocate, SR.No.74505

TCA.No.80 of 2018

Kak(12/11/2019)