IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.1003 and 1004 of 2014

T.C.A.No.1003 of 2013:-

Commissioner of Income Tax,
Coimbatore. .. Appellant/Respondent

-vs-

Shri.P.Pachamuthu,
C/o S.Sridhar, Advocate,
112/1, Periyar Street,
Erode. .. Respondent/Appellant

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 26.09.2013, on the file of the Income-tax Appellate Tribunal 'B' Bench, Chennai, in I.T.A.No.1702/Mds/2012 for the assessment year 2007-08.

T.C.A.No.1004 of 2013:-
Commissioner of Income Tax,
Coimbatore. .. Appellant/Appellant

-vs-

Shri.P.Pachamuthu,
Prop., Sabaris Leather Exports,
Sakthi Bhavani Connection Road,
B.P.Agraharam, Erode-638 005. .. Respondent/Respondent

Appeal under Section 206A of the Income-tax Act, 1961, against the order dated 26.09.2013, on the file of the Income-tax Appellate Tribunal 'B' Bench, Chennai, in I.T.A.No.1817/Mds/2012 for the assessment year 2007-08.

TCA.Nos.1003 to 1004 of 2014:
Against the order of the commissioner of Income Tax(Appeals) -I, Coimbatore dated 26.9.2019 for the Assessment year 2007-08, against the order of Income Tax Officer Ward-I(4), Erode made in PAN:AVEPP9855D for the Assessment year 2007-08.

For Appellant : Mr.T.R.Senthil Kumar,
(In both Appeals) Senior Standing Counsel

: assisted by Ms.K.G.Usharani,
Junior Standing Counsel

For Respondent : Mr.Niranjan Rajagopalan
(In both Appeals) For M/s.G.R.Associates

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COMMON JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

These appeals filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, are directed against the common order dated 26.09.2013, passed by the Income-tax Appellate Tribunal 'B' Bench, Chennai, in I.T.A.Nos.1702 & 1817/Mds/2012 for the assessment year 2007-08.

2.The above appeals were admitted on 10.12.2014, on the following substantial questions of law:-

> "T.C.A.No.1003 of 2014:-
>
> (i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that Section 40A(3) cannot be applied in assessee's case and therefore the addition made under that section is to be deleted?
>
> (ii) Whether based on material evidences available before it, the Tribunal could have come to the conclusion that the assessee had not paid for its purchases otherwise than through account payee cheque?
>
> T.C.A.No.1004 of 2014:-
>
> (i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in upholding the order of the CIT(A) that the addition made by the Assessing Officer towards the creditors which were not explained by the assessee is to be deleted?
>
> (ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that unexplained credits cannot be considered as income of the assessee since the business income of the assessee has been estimated as a percentage of its sales?"

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Junior Standing Counsel for the appellant and Mr.Niranjan Rajagopalan, learned counsel, for M/s.G.R.Associates, for the respondent.

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 08.08.2019 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 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 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.

Sd/-
Assistant Registrar(Insp cell)

//True Copy//
Sub Assistant Registrar

abr

To

1.The Income-tax Appellate Tribunal 'B' Bench, Chennai.

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

3.The Income Tax Officer,
Ward-I(4), Erode

+1cc to Mr.T.R.Senthil Kumar, Advocate SR.72915

T.C.A.Nos.1003 and 1004 of 2014

NMI(CO)
CB(06/11/2019)