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.429 and 430 of 2014
and M.P.Nos.1, 1, 2 and 2 of 2014

Commissioner of Income Tax,
Central Circle, Chennai-600 034. .. Appellant in both Appeals/ Appellant

-vs-

Shri Varghese Eapen,
8 (New No.13) 15th Avenue,
Harrington Road,
Chetpet, Chennai-600 031.
PAN; AAAPE0490J .. Respondent in both Appeals/ Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 27.06.2011, made in I.T.A.Nos.1752 & 1753/Mds/2010 on the file of the Income Tax Appellate Tribunal Bench 'C', Chennai for the assessment years 2007-08 and 2008-09 respectively against the order dated 11.06.2010 made in ITA.NOs.194 to 196/2009-2010 on the file of the Commissioner of Income Tax Appeals II,chennai 34 for the Assessment Year 2006-2007 to 2008-2009 and against the order dated 24.12.2009 made in PAN /GIR NO.AAA PE 0490 J on the file of the Assistant Commissioner of Income Tax, central Circle III (4), chennai 34 for the Assessment Year 2008-2009 and against the order dated 24.12.2009 made in PAN/GIR NO. AAAPE0490J on the file of the Assistant commissioner of Income Tax,Central Circle III(4), chennai 34 for the Assessment Year 2007-08 (TCA.429,430/2014).

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

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

For Respondent : Ms.Sree Lakshmi Valli,
(In both Appeals) For Mr.N.Muthukumar

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COMMON JUDGMENT

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

These appeals filed by the Revenue under Section 260A of the Income-tax Act, 1961 are directed against the common order dated 27.06.2011, made in I.T.A.Nos.1752 & 1753/Mds/2010 on the file of the Income Tax Appellate Tribunal Bench 'C', Chennai for the assessment years 2007-08 and 2008-09 respectively.

2.The above appeals were admitted on 25.08.2014, on the following substantial questions of law:-

"T.C.A.No.429 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 Commissioner of Income Tax Appeals in deleting the addition made by the assessing authority towards unexplained credit amounting to Rs.4,08,000/- u/s 69 of the Income Tax Act?

(ii) Whether on the facts and in the circumstances of the case the Tribunal was right in upholding the order of the Commissioner of Income Tax Appeals who had deleted the addition made towards capital gains amounting to Rs.125 Lakhs?

(iii) Whether on the facts and in the circumstances of the case the Tribunal was right in upholding the order of Commissioner of Income Tax Appeals especially when there was violation of provisions of Rule 46A (2) of the Income tax Rules then the Assessing Officer has objected the same and the additional evidences were admitted without recording the same in writing?

T.C.A.No.430 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 Commissioner of Income Tax Appeals in deleting the addition made by the assessing authority towards unexplained credit amounting to Rs.6,10,500/- u/s 69 of the Income Tax Act?

(ii) Whether on the facts and in the circumstances of the case the Tribunal was right in upholding the order of Commissioner of Income Tax Appeals especially when there was violation of provisions of Rule 46A (2) of the Income tax Rules then the Assessing Officer has objected the same and the additional evidences were admitted without recording the same in writing?”

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Standing Counsel for the appellant - and Ms.Sree Lakshmi Valli, learned counsel 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. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

abr

To

1.THE INCOME TAX APPELLATE TRIBUNAL BENCH 'C', CHENNAI.

2.THE ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE III (4), CHENNAI 34

3.THE COMMISSIONER OF INCOME TAX,CENTRAL APPEALS II, CHENNAI 34

+1cc to Ms.Sree Lakshmi Valli , Advocate SR.No. 73054
+1cc to Mr.t.R.Senthil Kumar , Advocate SR.No. 72911

T.C.A.Nos.429 and 430 of 2014

A.SK(20/11/2019)