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.955 to 964 of 2014

Commissioner of Income Tax,
Trichy. .. Appellant in all Appeals

-vs-

Shri P.C.Kailash Chand Jain,
18/5, Gandhij Road,
Mayiladuthurai-609 001. .. Respondent in all Appeals

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 16.08.2011, made in I.T.A.No.651/Mds/2011,; C.O.No.71/Mds/2011; I.T.A.No.652/Mds/2011; C.O.No.72/Mds/2011; I.T.A.No.653/Mds/2011; C.O.No.73/Mds/2011; I.T.A.No.654/Mds/2011; C.O.No.74/Mds/2011; I.T.A.No.655/Mds/2011; and C.O.No.75/Mds/2011on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment years 2003-04, 2003-04, 2004-05, 2004-05, 2005-06, 2005-06, 2006-07, 2006-07, 2007-08 and 2007-08 respectively,

against the order dated 21/01/2011 and made in ITA 610 to 614/08-09 on the file of the Commissioner of Income Tax (Appeals), Tiruchirapalli and against the order dated 22/12/2008 and made in PAN/GIR No.K-13227 for the Assessment Year 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008 on the file of the Income Tax Officer, Ward I(2), Kumbakonam respectively.

For Appellant : Mr.M.Swaminathan,
(In all Appeals) Senior Standing Counsel &
: Ms.V.Pushpa,
Standing Counsel

For Respondent : Mr.T.Vasudevan
(In all Appeals)

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 16.08.2011, made in I.T.A.No.651/Mds/2011,; C.O.No.71/Mds/2011; I.T.A.No.652/Mds/2011; C.O.No.72/Mds/2011; I.T.A.No.653/Mds/2011; C.O.No.73/Mds/2011; I.T.A.No.654/Mds/2011; C.O.No.74/Mds/2011; I.T.A.No.655/Mds/2011; and C.O.No.75/Mds/2011 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment years 2003-04, 2003-04, 2004-05, 2004-05, 2005-06, 2005-06, 2006-07, 2006-07, 2007-08 and 2007-08 respectively.

2.The above appeals were admitted on 22.12.2014, on the following substantial questions of law:-

> "(i) Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the entire additions and disallowance made by the Assessing Officer without considering the fact that the benefit of declaration under VDIS has already been considered by the Original Authority; therefore, on the same facts, the Tribunal ought to have granted such a relief?
>
> (ii) Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in stating that additions should be on the basis of diary entry contrary to the sworn statement by the assessee, which shows higher figure and that has been considered by the Assessing Officer?
>
> (iii) Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in deleting the additions with respect to un-explained investment/income under various heads?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel and Ms.V.Pushpa, learned Standing Counsel for the appellant - and Mr.T.Vasudevan, learned counsel for the respondent.

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 08.08.2019 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 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.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,
Trichy.

3.The Commissioner of Income Tax (Appeals),
Tiruchirapalli.

4.The Income Tax Officer,
Ward I (2),
Kumbakonam.

+1cc to Mr.M.Swaminathan, Advocate Sr.73025

T.C.A.Nos.955 to 964 of 2014

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srg 12/11/2019