IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

T.C.Nos.35 to 39 of 2019

The Commissioner of Wealth tax,
Madurai.
... Appellant (in all appeals)/Petitioner

Vs

Suresh Krishna
Executor to the Estate of
Late T.S.Krishna,
Madurai.
... Respondent (in all appeals)/ Respondent

PRAYER in T.C.No.35 of 2019: Appeal under Section 27(3 )of Wealth Tax Act, 1957 against the order of the Income Tax Appellate Tribunal 'C' Bench, Madras in R.A.No.271/(MDS)/1991, dated 28.06.1991.

PRAYER in T.C.No.36 of 2019: Appeal under Section 27(3 )of Wealth Tax Act, 1957 against the order of the Income Tax Appellate Tribunal 'C' Bench, Madras in R.A.No.270/(MDS)/1991, dated 28.06.1991.

PRAYER in T.C.No.37 of 2019: Appeal under Section 27(3 )of Wealth Tax Act, 1957 against the order of the Income Tax Appellate Tribunal 'C' Bench, Madras in R.A.No.273/(MDS)/1991, dated 28.06.1991.

PRAYER in T.C.No.38 of 2019: Appeal under Section 27(3 )of Wealth Tax Act, 1957 against the order of the Income Tax Appellate Tribunal 'C' Bench, Madras in R.A.No.272/(MDS)/1991, dated 28.06.1991.

PRAYER in T.C.No.39 of 2019: Appeal under Section 27(3 )of Wealth Tax Act, 1957 against the order of the Income Tax Appellate Tribunal 'C' Bench, Madras in R.A.No.274/(MDS)/1991, dated 28.06.1991.

Preferred against the order passed by the Commissioner of Income Tax, (Appeals)II, Madurai, dated 29/01/1990 for the

Assessment years 1983-1984 to 1987-1988 against the order passed by the Wealth Tax officer Circle -I(2), Madurai, dated 30/03/1989 for the Assessment year 1983-1984 and against the order the Passed by the Assistance Commissioner of Wealth tax, Madurai, dated 27/02/1989 for the Assessment year 1984-1985, 1985-1986, 1986-1987, 1987-1988 respectively.

For Appellant : Mr.M.Swaminathan (in all appeals)
Senior standing counsel

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The Appeals have been preferred by the Revenue against the order of the Income Tax Appellate Tribunal 'C' Bench, Madras in R.A.Nos.270 to 274/(MDS)/1991, dated 28.06.1991 for the assessment years 1983-84 to 1987-88.

2.In the Reference applications, the Revenue has requested the Tribunal to refer the following question of law for the opinion of this Court:

> “Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the advance tax paid should not be deducted from the tax on the book profits for the purpose of Rule 1D of the Wealth tax Rules 1957"

By order dated 28.06.1991, the Tribunal has rejected the same by referring the decision of this Court in the case of L.G.Balakrishnan Vs. CWT reported in 173 ITR 266, in which it has been held that a question concluded by the decision of the High Court should not be referred.

3.These appeals are admitted on the following substantial question of law :

> “Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the advance tax paid should not be deducted from the tax on the book profits for the purpose of Rule 1D of the Wealth tax Rules 1957"

4.Mr.M.Swaminathan, learned Senior Standing Counsel appearing on behalf of the appellant would submit that the tax effect in these cases are less than Rs.1 crore and are covered by Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, Delhi. As per the said circular, the monetary limit to file an appeal before the High Court is fixed at Rs.1 crore. In these cases, tax effect is less than Rs.1 crore and therefore, these cases have to be dismissed.



5.This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the said Circular, which prescribes monetary limit for filing appeal is usefully extracted as follows:

> 2.As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

| S.No. | Appeals / SLPs in Income-tax matters | Monetary Limit (Rs.) |
|---|---|---|
| 1. | Before Appeallate Tribunal | 50,00,000 |
| 2. | Before High Court | 1,00,00,000 |
| 3. | Before Supreme Court | 2,00,00,000 |

6.In view of the submissions made by the learned counsel appearing on behalf of the appellant and also in view of the Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Delhi, the Tax Case Appeals are dismissed on account of tax effect. However, the substantial questions of law framed are left open. In the event the tax effect is above the 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(CS VII)

//True Copy//

Sub Assistant Registrar

sai

To

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

2.The Commissioner of Wealth tax, Madurai.

3.The Commissioner of Income Tax, (Appeals)II,
Madurai.

4.The Assistance Commissioner of Wealth tax,
Madurai.

5.The Wealth Tax officer Circle -I(2), Madurai.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.96237

T.C.Nos.35 to 39 of 2019

PVS(CO)
CT 10/12/2021