In the High Court of Judicature at Madras

Dated : 25.7.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.509 of 2019

The Principal Commissioner of Income
Tax-1, Coimbatore ...Appellant

Vs

M/s.TNSTC Coimbatore Ltd.,
Coimbatore-43. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 to set aside the order dated 15.2.2019 made in ITA.No.1519/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2013-14,

as against the order of the Commissioner of Income Tax (Appeals)-1, Coimbatore made in Appeal No.113/16-17 dated 19/02/2018 as against the order of the Assistant Commissioner of Income Tax, Corporate Circle-2 Coimbatore dated 30/09/2016 in PAN-AAACC9092M for the Assessment Year 2013-14 as against the order of the Deputy Commissioner of Income Tax, Corporate Circle-2, Coimbatore dated 26/03/2016 in PAN AAACC9092M for the Assessment Year 2013-14.

For Appellant : Mr.T.R.Senthilkumar, SSC

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel for the appellant.

2. This appeal, filed by the assessee, under Section 260A of the Income Tax Act, 1961 (for short, the Act), is directed against the order dated 15.2.2019 made in ITA.No.1519/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench (for short, the Tribunal) for the assessment year 2013-14.

3. The Revenue has filed this appeal on the following substantial questions of law :

> "(i) Whether the Appellant Tribunal is correct in cancelling the penalty levied under Section 271(1)(c) of the Income Tax Act ? and
>
> (ii) Whether or not furnishing an expense claim in the return of income, which is more than the claim made in the annual report of the company, would amount to concealment of income or not?"

4. On a perusal of the order passed by the Tribunal, we find that the Tribunal, after considering the fact that the respondent - assessee is a State Government undertaking and had to meet certain norms set by the State Government Audit Department while preparing the profit and loss account, held that while preparing the accounts of the assessee, there occurred certain differences, which, according to the assessee, were not deliberate with an intention to evade payment of tax.

5. The learned Senior Standing Counsel for the appellant would submit that the Tribunal placed reliance on the decision of the Hon'ble Apex Court in the case of CIT Vs. Reliance Petro Products [reported in (2010 189 Taxmann 322] whereas the latest decision on the issue is in the case of Mak Data (P) Ltd. Vs. CIT [reported in (2013) 38 Taxmann.com 448 (SC)] wherein it was held that voluntary disclosure does not release the assessee from mischief of penal proceedings under Section 271(1)(c) of the Act.

6. After hearing the learned Senior Standing Counsel for the Revenue and perusing the materials placed before us, we find that the Commissioner of Income Tax (Appeals) [for brevity, the CIT(A)], in his order dated 19.2.2018, considered the entire factual position with specific reference to the fact that the assessee company is a wholly owned Tamil Nadu State Government undertaking. Furthermore, the CIT(A) noted that in the course of assessment proceedings, the assessee explained the reason for the difference and did not dispute the addition and held that the assessee never filed any inaccurate particulars. In addition to that, the CIT(A), on perusal of the facts, the annual report and the other details furnished by the assessee, held that the Assessing Officer was not in a position to establish that inaccurate particulars were filed by the assessee. These findings have been affirmed by the Tribunal in the impugned order.

7. Thus, we find that the entire matter revolves on the factual matrix and no substantial question of law arises for consideration. Consequently, we are not required to examine as to the applicability of the decision in the case of Mak Data (P) Ltd.

8. For the foregoing reasons, the above tax case appeal is dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax Appeals-I,
Coimbatore.

3.The Deputy Commissioner of Income Tax,
Corporate Circle-2,
Coimbatore.

4.The Assistant Commissioner of Income Tax,
Corporate Circle-2,
Coimbatore.

+1cc to Mr.T.R.Senthilkumar, Advocate Sr.63628

TCA.No.509 of 2019

spd[co]
srg 28/08/2019