IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2019

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

T.C.A. No. 982 of 2019

Principal Commissioner of Income Tax,
Central 2,
No.108, Mahatma Gandhi Road,
Chennai. ..Appellant

Vs.

Shri. Subramanian Kulanthyaian ..Respondent

Prayer: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, dated 13.03.2019 in ITA No. 155/Chny/2018, against the O/o.Commissioner of Income Tax (Appeals)-19, Mahatma Gandhi Road, Nungambakkam, Chennai-34 and made in ITA.No.250/16-17, dated 16.10.2017 and against the O/o.the Assistant Commissioner of Income Tax, Central Circle-2, Trichy and made in PAN/GIR.no.AHZPK0911G, dated 20/12/2016 for the Assessment Year 2014-15.

For Appellant :: Mr.T.R. Senthilkumar
Senior Standing Counsel

For Respondent :: Mr.M. Kaushik for
Mr.S. Sridhar

J U D G M E N T

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

This Tax Case Appeal has been preferred by the Revenue against the order dated 13.03.2019 passed in ITA.No.155/Chny/2018 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench for the assessment year 2014-2015.

2.The respondent/assessee, an individual, aggrieved by the order of the Assessing Officer making an addition of Rs.2,94,02,600/- under Section 69A of the Income Tax Act, 1961, as unexplained cash deposits, based on the return of income filed by the assessee for the assessment year 2014-2015, preferred an appeal before the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals) rejected the addition as incorrect and aggrieved by the appellate order, both the Department as well as the assessee preferred appeals before the Tribunal, which were rejected by the order under challenge. Against the order of the Appellate Tribunal only, the present appeal has been filed by the Revenue.

3.The appeal is admitted on the following substantial questions of law :

> “1. Whether on the facts and in the circumstances of the case, the ITAT is correct in law in not appreciating that, in spite of several opportunities provided by the assessing officer, the assessee was unable to provide the details called for in respect of cash deposits, amounting to several crores?
>
> 2. Whether the Appellate Tribunal is justified in allowing the claim of peak credit adopted by the CIT(A) ignoring that no books of accounts' have been maintained by the assessee and the deposits remain unexplained and the assessee has failed to establish one-to-one correlation between deposits and withdrawals?
>
> 3. Whether the ITAT is correct in law in accepting the peak credit adopted by the CIT(A), which is not a scientific method to arrive at the undisclosed income, ignoring that there are outstanding advances not returned back also, which will escape tax net?
>
> 4. Whether the highest fact finding authority is right in law dismissing the case when assessee was proved to be factual wrong in claiming peak credit method since no books of accounts for any of the Assessment Year being maintained by the assessee?”

4.Mr.T.R. Senthilkumar, learned Senior Standing Counsel appearing on behalf of the appellant would submit that the tax effect in this case is less than Rs.1 crore and is 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 this case, tax effect is less than Rs.1 crore and therefore, the case has 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 Senior Standing 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 Appeal is 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 appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal,
Madras 'B' Bench.

2.The Commissioner of Incoem Tax(Appeals)-19,
Nungmbakkam, Chennai-34.

3.The Assistant Commissioner of Income Tax,
Central Circle-2, Trichy.

+1cc to Mr.T.R.Senthilkumar, Advocate, SR.No.100689.
+1cc to Mr.S.Sridhar, Advocate, SR.No.100625.

RR(CO)
CSR: 20/12/2020