IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.457 of 2017

Principal Commissioner of Income Tax 2,
No.63, Race Course Road,
Coimbatore. .. Appellant

-vs-

Shri.R.Sivalingam,
61/1B, Pavithra Apartment,
Kumalan Kuttai,
Collectorate Post, Erode-638 011.
PAN: APA PS 0181 H .. Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 20.12.2016, made in I.T.A.No.347/Mds/2016, C.O.No.46/Mds/2016 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2012-13, against the order dated 23/11/2015, made in ITA.No.598/2014-15 on the file of the Commissioner of Income Tax(Appeals)-3, Coimbatore and against the order dated 27/03/2015 on the file of the Income Tax Officer Ward-1(4), Erode, made in PAN.No.APAPS0181H for the Assessment year 2012-13.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel
: assisted by Ms.K.G.Usharani,
Standing Counsel

For Respondent : Mr.N.V.Balaji

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

This appeal filed by the Revenue under Section 260A of the Income-tax Act, 1961 is directed against the order dated 20.12.2016, made in I.T.A.No.347/Mds/2016 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2012-13.

2.The appeal has been admitted on 16.08.2017, on the following substantial questions of law:-

> "(i) Whether the learned Appellate Tribunal was right in law in deleting the addition made under Section 68 of the Income Tax Act, 1961, when the assessment was made based on the diary impounded during the course of survey action under Section 133A of the Act and also on the basis of the statements recorded from the assessee, which was neither retracted nor raised any dispute on the entries made therein? and
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> (ii) Whether the learned Tribunal was right in law in declining to interfere with the order of the Commissioner of Income Tax (Appeals) wherein the addition was restricted to 8% of the cash credits found, without appreciating the fact that cash credits are to be charged to tax as income under Section 68 of the Income Tax Act, 1961, in the absence of any explanation as to the nature and sources of the cash credits by the assessee?"

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Standing Counsel for the appellant.

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

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax (Appeals)-3,
Coimbatore.

3.The Income Tax Officer,
Ward-I(4), Erode - 638 001.

+1cc to M/s.T.R.Senthilkumar, Advocate SR.No.75127
+1cc to M/s.N.V.Balaji, Advocate SR.No.76082

AKM/13.11.19 /3P-6C/

T.C.A.No.457 of 2017