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 Nos.639 and 640 of 2017

Commissioner of Income Tax,
Central Circle III(3),
Chennai. .. Appellant in both Appeals/Appeals

-vs-

Shri V.C.Palani,
52, Periadhanam Subbaraya Mudali Street,
Velapadi, Vellore-630 001.
PAN: AHLPP8172E .. Respondent in both Appeals/Respondent

Appeals under Section 260A of the Income-tax Act, 1961, against the common order dated 23.11.2016, made in I.T.(SS) A.Nos.16 & 17/Mds/2013 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment block period from 01.04.1996 to 27.11.2002.

against the Order dated 27/03/2013 made in ITA.No. 108/2012-13 (& 156/05-06) on the file of the Commissioner of Income Tax/Appeals -1, Chennai 600 034 for the Assessment Year from 01/04/96 to 27/11/2002 and against the order dated 27103/2013 made in DTA.No. 109/2012-13 (& 163/07-08) on the file of the Commissioner of Income Tax (Appeals) I Chennai 600 034 for the Assessment Year From 01.04.96 to 27/11/2002 and against the order dated 31/12/2007 made in PA.No./G.I.No. AHLPP8172E on the file of the Assistant Commissioner of Income Tax Central Circle III (3), Chennai for the Assessment Year Block Period 01/04/96 to 27/11/2002 and against the order dated 31/01/2005 made in AHL The Public Prosecutor 8172 E on the file of the Deputy Commissioner of Income Tax, Central Circle III(3), Chennai for the Assessment Year from 01/04/1996 to 27/11/2002.

For Appellant (In both Appeals) :	Mr.M.Swaminathan, Senior Standing Counsel
:	assisted by Ms.V.Pushpa Standing Counsel
For Respondent : (In both Appeals)	Mr.T.Vasudevan

COMMON 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 23.11.2016, made in I.T.(SS) A.Nos.16 & 17/Mds/2013 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment block period from 01.04.1996 to 27.11.2002.

2.The appeals have been filed raising the following substantial questions of law:-

"T.C.A.No.639 of 2017:-

(i) Whether on the facts and circumstances of the case the Tribunal was justified in deleting the addition made u/s 68 even though assessee failed to prove the genuineness of the transaction without any evidence? and

(ii) Whether on the facts and circumstances of the case the Tribunal was justified in deleting the addition made u/s 68 allegedly made by 15 parties even though the assessee produced only 8 parties before the Assessing Officer?

T.C.A.No.640 of 2017:-

(i) Whether on the facts and circumstances of the case and in law the Tribunal was justified in deleting the penalty levied u/s.271 D holding that the assessee as a broker when the evidence on record proves that the assessee was not acting as a broker and he was doing finance/money lending activity? and

(ii) Whether on the facts and circumstances of the case and in law the Tribunal was right in deleting the penalty u/s.271 D when the assessee has not proved the necessity or urgency in accepting the loan in cash?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by 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 appeals are 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 appeals are 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 appeals to be heard and decided on merits. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax (Appeals) -1,
Chennai-34.

3.The Assistant Commissioner of Income Tax
Central Circle III (3), Chennai.

4.The Deputy Commissioner of Income Tax,
Central circle III (3), Chennai.

+1cc to Mr.T.Vasudevan, Advocate, S.R.No. 75289
+1cc to Mr.M.Swaminathan, Advocate, S.R.No. 75051

T.C.A.Nos.639 and 640 of 2017

SR(CO)
GN(06/11/2019)