IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.12.2019

CORAM

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

T.C.A. No. 984 of 2019

Commissioner of Income Tax,
Chennai. ..Appellant

Vs.

K. Jagannathan
Chennai. ..Respondent

Prayer: Appeal under Section 260A of the Income Tax Act, 1961 as against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, dated 20.05.2002 in IT (SS) A No. 325/Mds/97 dated 20.05.2002 for the assessment years 1986-87 to 1996-97 agains the order of the assistant Commissioner of Income tax Central circle I(5),Chennai dated 30.09.1997

For Appellant :: Mr.T.R. Senthilkumar
Senior Standing Counsel
for M/S.Pushya Starman

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 20.05.2002 passed in IT (SS) A No. 325/mds/97 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench for the assessment years 1986-87 to 1996-97.

2.The respondent's/assessee's residence was searched on 13th and 14th September, 1996. A block assessment was framed on 30.09.1997 including various amounts. The assessee filed an appeal before the Income Tax Appellate Tribunal. The Tribunal, by its impugned order, deleted inter alia the addition of Rs.11,56,864/- made on account of valuation cell's report regarding cost of construction of the property at RK Mutt Road, Mylapore, on the ground that in a block assessment, the Assessing Officer cannot examine the cost of construction, nor refer the same to the valuation officer, when no evidence was found at the time of search indicating that the assessee had expended the amount. The Appellate Tribunal also deleted the addition of Rs.22,38,000/- which the assessee claimed was a loan from one MG Sekhar who confirmed the loan, but could not explain the source on the ground that the addition made is not based on positive evidence but apprehension, and only protective assessment was made. Aggrieved by 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 in the facts and circumstances of the case, the Tribunal was right in deleting the sum of Rs.22,38,000 assessed protectively in the hands of the assessee, when there was no evidence that the amount was in fact, a loan as claimed by the assessee?
>
> 2. Whether in the facts and circumstances of the case, the Tribunal was right in holding that in a case of block assessment reference cannot be made to the valuation cell regarding cost of construction, when no material was found at the time of search showing the extent of expenditure on the construction?"

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(CS VIII)

//True Copy//

Sub Assistant Registrar

nv
To
The Income Tax Appellate Tribunal,
Madras 'B' Bench.

2.The Assistant Commissioner of Income tax,
Central circle I(5),Chennai

+2ccs to Mr.T.R.Senthil kumar , Advocate SR.No. 102113 103547

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A.SK(10/02/2020)