IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.1.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case Nos.1439, 1440, 1443, 1444 & 1445 of 2008

The Commissioner of Income Tax,
Tamil Nadu-I, Madras. Appellant /Respondent

Vs.

M/s.Express News Papers Ltd.,
Express Estates, Anna Salai,
Chennai 600 002. Respondent/Appellant

Tax Cases filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'A' Bench, Chennai, dated 31.10.2006 made in ITA No.503/Mds/2001, WTA No.50/Mds/2001, ITA Nos.1748/Mds/2002, 1875/Mds/2002 and 587/Mds/2003

ITA No.503/MDS/2001: as against the order passed by the Commissioner of Income Tax (Appeals) Chennai in I.T Appeal No.283/98-99/SR-IX dated 06.02.2002 as against the order passed by the Deputy Commissioner of Income Tax, Special Range IX, Madras in PAN/GIR No.47-005-C2-5610 dated 30.03.1993 for the assessment year 1990-91

ITA No.50/Mds 2001: as against the order passed by the Commissioner of Income Tax(Appeals) III, Chennai in WTA No.22/2000-2001/A III, dated 21.03.2001 as against the order passed by the Joint Commissioner of wealth Tax Special Manage IX, Chennai in PA.No/4IR No.AAACE1702G, dated 24.03.2000 for the assessment year 1997-1998.

ITA.No.1748/Mds/2002: as against the commissioner of Income Tax Appeal III, Chennai in ITA.Nos.158/2000-2001/A-III dated 01.02.2001 against the order passed by the Joint Commissioner of Income Tax, Special Range-IX, Chennai in PAN/GIR.No.AAACE1702G order dated 20.03.2000 for the assessment year 1991-1998.

ITA.No.1875/MDS/2002:against the order passed by the Joint Commissioner of Income Tax in PAN/GIR.No.AAACE17024 order dated 22.05.2001 for the assessment year 1997-1998.

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ITA.No.587/MDS/2003:as against the order passed by the Commissioner of Income Tax(Appeals)-XI, Chennai in ITA.No.26/2001-2002 and 97/2001-2002 dated 10.01.2003 as against the order passed by the Joint Commissioner of Income Tax, Special Range IX, Chennai-34 in PAN/GIR.No.AAACE1702G date of order 07.03.2001 and 16.05.2001 for the assessment year 1998-1999.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel
For Respondent : Mr.M.P.Senthilkumar for
Mr.G.Baskar

COMMON JUDGMENT

(Delivered by DR.VINEET KOTHARI,J)

These Tax Cases have been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'A' Bench, Chennai, dated 31.10.2006 made in ITA Nos.503/Mds/2001, 50/Mds/2001, 1748/Mds/2002, 1875/Mds/2002 and 587/Mds/2003, for the Assessment Years 1990-1991, 1997-1998 and 1998-1999 by raising the following substantial questions of law:

"T.C.1439/2008
(i) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in holding that the Assessee is entitled for 100% depreciation on sale and lease back transaction even though no real transaction took place during the assessment year in question?
(ii) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in directing the assessing officer to allow deduction towards remuneration paid to M/s.Haritha Finance Pvt. Ltd. even though there is no genuine transaction between the parties concerned?"
T.C.1440/2008
"Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in remitting the matter back to the AO for fresh consideration even though adoption of gross rent of the portion let out to Indian Express (Bombay Ltd.) arrived at by the AO is in accordance with the Act?"
T.C.1443 & 1444 of 2008
Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in deleting the penalty levied under Section 271(1)(c) of the

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Income Tax Act, 1961 in respect of foreign travel which have no nexus over the business of the assessee?

T.C.1445/2008

i) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in remitting the matter back to the AO with a direction to follow the High Court decision reported in 227 ITR 325 even though the AO correctly disallowed 75% of the expenses in accordance with law?

ii) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in allowing bad debt being the amount transferred to bad debts reserve account as not recoverable when it was not actually written off?"

2. When the matters are taken up for hearing, learned Senior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant cases, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeals filed by the Revenue are dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssk.

To

1. The Commissioner of Income Tax,
Tamil Nadu-I, Madras.

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

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3. The Commissioner of Income Tax
(Appeals)-III Chennai-34

4.The Deputy Commissioner of Income Tax,
Special Range-IX, Madras-34

5.The Joint Commissioner of Wealth Tax,
Special Range IX, Chennai

6.The Assistant Commissioner of Income Tax,
Company Circle II(1)
Chennai-34

7.The Commissioner of Income Tax(Appeals)X
Chennai

8.The Joint Commissioner of Income Tax
Special Range IX, Chennai

9.The Commissioner of Income Tax Appeals-XI
Chennai

+1 cc to Mr.G.Baskar Advocate sr6396

T.C.Nos.1439, 1440, 1443,
1444 & 1445 of 2008

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