IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.1.2020

CORAM

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

Tax Case Nos.1482 to 1487 and 937 of 2008

Commissioner of Income Tax
Chennai — Appellant in all the cases

Vs.

Estate of Late Balu Bai Dadha,
by Executor S.Mohanchand Dadha
268, Loyds Road,
Chennai 600 014. — Respondent in TC 1482/2008

Shri.Pradeep Dadha — Respondent in TC 1483/2008

Smt.Kanta Kavar Dadha — Respondent in TC 1484/2008

Subhagmal Mohanchand Dadha
(HUF), 268, Loyds Road,
Chennai 600 014. — Respondent in TC 1485/2008

Shri.M.Meherchand Dadha — Respondent in TC 1486 & 1487 of 2008

Shri.S.Mohanchand Dadha (HUF),
M/s.Kumbahat & Co.C.A.'s,
144, N.S.C.Bose Road,
Chennai-79. — Respondent in TC 937/2008

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 16.11.2007 in ITA Nos.172/Mds/2005, 173/Mds/2005, 174/Mds/2005, 177/Mds/2005, 176/Mds/2005, 180/Mds/2005 and 178/Mds/2005.

TCA.No.1482 of 2008

ITA No.172/mds/2005 against the Commissioner of Income Tax (Appeals)-I, Chennai - 34 in ITA No.141/2003-04 dated 20/09/06 in TA.G.I.PA.No.3591-B for the Assesment year 1.4.88 to 15.12.98 against the Asst. Commissioner of Income Tax, Central Circle IV (2), Chennai, P.A.No/G.I.No.3591-B for the Assesment Year 1.4.88 to 15.12.1998 Date of Order 3.7.2003

TCA.No.1483 of 2008

ITA No.173/mds/2005 against the Commissioner of Income Tax (Appeals)-I, Chennai - 34 in ITA No.140/03-04 dated 26/09/06 in G.I.No/PA.NO.755P for the Assesment Year 1.4.88 to 15.12.98 against the Assistant Commissioner of Income Tax, Central Circle IV(2), Chennai in P.A.No/G.I.No.765-P for the Assesment year 1.4.88 to 15.12.1998 Date of Order: 3.7.2003

TCA.No.1484 of 2008

ITA No.174/mds/2005 against the Commissioner of Income Tax (Appeals)-I, Chennai - 34 in ITA No.190/04-05 dated 20/09/05 in G.I.No/PA.NO.8731K for the Assesment Year 1.4.88 to 15.12.98 against the Assistant Commissioner of Income Tax, Business Circle VIII, Chennai 6 P.A.N/.G.I.No.8731K for the Assesment year 1.4.88 to 15.12.1998 Date of Order: 28.07.2003

TCA.No.1485 of 2008

ITA No.177/mds/2005 against the Commissioner of Income Tax (Appeals)-I, Chennai - 34 in ITA No.142/03-04 dated 20/09/05 in G.I.No/PA.NO.211S for the Assesment Year 1.4.88 to 15.12.98 against the Assistant Commissioner of Income Tax, Central Circle IV(2), Chennai for the Assesment year 1.4.88 to 15.12.1998 Date of Order: 03.07.2003

TCA.No.1486 of 2008 and 1487/08

ITA No.176 & 180/mds/2005 against the Commissioner of Income Tax (Appeals)-I, Chennai - 34 in ITA No.186/2003-04 dated 27/09/2005 in G.I.No/PA.NO.AAVP3726C for the Assesment Year 1.4.88 to 15.12.98 against the order of the Deputy Commissioner of Income Tax, Central Circle 32, Mumbai PAN/GIR NO.27-M/DCCC 32 for the Assesment Year 1.4.1988 to 15.12.1998 Order dated 29.01.2001.

TCA.No.937 of 2008

ITA No.178/mds/2005 against the Order of Commissioner of Income Tax (Appeals)-I, Chennai - 34 in ITA No.184/03-04 dated 20/09/05 in G.I.No/PA.NO.AABPD8430C for the Assesment Year 1.4.88 to 15.12.98 against the order of the Deputy Commissioner of Income Tax, Central Circle 32, Mumbai PAN/GIR.No.AABPD8430C for the Assesment year 1.4.1988 to 15.12.1998 dated Nil.

For Appellant	:	Mrs.K.G.Usha Rani Standing Counsel
For Respondents	:	Mr.T.Pramodkumar Chopda

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 16.11.2007 in ITA Nos.172/Mds/2005, 173/Mds/2005, 174/Mds/2005, 177/Mds/2005, 176/Mds/2005, 180/Mds/2005 and 178/Mds/2005, for the Block Period 1.4.1988 to 15.12.1998, by raising the following substantial questions of law:

"T.C.Nos.1482 to 1485 of 2008
i) Whether in the facts and circumstances of the case, the Tribunal was right in holding that since the amalgamation is a reality, amounts received by the assessee from the amalgamated company from even before the amalgamation cannot be brought to tax?
ii) Whether in the facts and circumstances of the case, the Tribunal was right in holding that interest on the amounts agreed to be paid by the amalgamated company cannot be brought to tax?

T.C.No.1486 & 1487 of 2008
i) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the block assessment order passed under section 158BC in the assessee's case is bad in law as the material seized was not books of account or other documents but loose sheets of paper?
ii) Whether in the facts and circumstances of the case, the Tribunal was right in holding that since the amalgamation is a reality, amounts received by the assessee from the amalgamated company from even before the amalgamation cannot be brought to tax?
iii) Whether in the facts and circumstances of the case, the Tribunal was right in holding that interest on the amounts agreed to be paid by the amalgamated company cannot be brought to tax?
iv) Whether in the facts and circumstances of case, the Appellate Tribunal was right in deleting the addition made by the assessing officer on account of undisclosed income?

T.C.No.937 of 2008
i) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the assessee as a share holder of TDPL had not received any cash consideration for accepting the merger of TDPL with SPIL?

ii) Whether on the facts and circumstances of the case, the Tribunal was right in holding that interest paid by SPIL to the assessee for the period from 1.7.1997 till the date of search cannot be brought to tax?"

2. When the matters are taken up for hearing, learned 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To

1. Income Tax Appellate Tribunal,
   'A' Bench, Chennai.

2. Commissioner of Income Tax
   Chennai.

3. Estate of Late Balu Bai Dadha,
   by Executor S.Mohanchand Dadha
   268, Loyds Road,
   Chennai 600 014.

4. Subhagmal Mohanchand Dadha
   (HUF), 268, Loyds Road,
   Chennai 600 014.

5. Shri.S.Mohanchand Dadha (HUF),
   M/s.Kumbahat & Co.C.A.'s,
   144, N.S.C.Bose Road,
   Chennai-79.

6.The Commissioner of Income Taxes
(Appeals)-I, Chennai 34.

7.Assistant Commissioner of Income tax,
Central Circle IV(2), Chennai.

8.The Assistant Commissioner
of Income Tax, Business Circle VIII,
Chennai - 6.

9.Deputy Commissioner of Income Tax,
Central Circle - 32,
Mumbai.

+5ccs to M/s.T.Pramod Kumar Chopda, Advocate, S.R.No.2109,2110, 2111, 2112, 2113

TC Nos.1482 to 1487
and 937 of 2008

BP(CO)
KKV/22/12/2020