In the High Court of Judicature at Madras

Dated : 06.7.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.256 & 257 of 2010

Commissioner of Income Tax,
Central III, Chennai ...Appellant/Appellant in both petitions

Vs

Mr.J.S.Kamath ...Respondent/Respondent in both petitions

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 26.6.2009 made respectively in IT (SS)A.No.7/Mds/ 2008 and C.O.No.30/Mds/2008 in IT(SS) A.No.7/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the block assessment period from 01.4.1996 to 26.11.2002 and against the order dated 11.09.2007 made respectively in ITA.No.376/2006-07 on the file fo the commissioner of Income Tax(Appeals)-II, Coimbatore, for the block assessment period from 10.04.1996 to 26.11.2002, and against the order dated 12.12.2006 in PAN/GIR No.AFPPK2802Q on the file of the Deputy Commissioner of Income-Tax Central Circle-III, Coimbatore for block assessment period from 01/04/1996 to 26/11/2002.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted
in both cases by Ms.K.G.Usharani, SC

For Respondent: Mr.A.S.Sriraman
in both cases

COMMON JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J)

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel, assisted by Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant - Revenue and Mr.A.S.Sriraman, learned counsel appearing for the respondent.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) are directed against the common order dated 26.6.2009 made respectively in IT (SS)A.No.7/Mds/2008 and C.O.No.30/ Mds/2008 in IT(SS)A. No.7/Mds/2008 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench (for brevity, the Tribunal) for the block period 01.4.1996 to 26.11.2002.

3. The appeals have been admitted on 22.3.2010 on the following substantial question of law :

> "Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessment made on the assessee for the block period under Section 158BD was void ab initio and in quashing the assessment on the ground which no satisfaction note has been recorded by the concerned Assessing Officer to the effect that the income belonged to another person namely the assessee?"

4. These appeals cannot be pursued by the Revenue in the light of the Board's circular in Circular No.24/2015 dated 31.12.2015. In the said circular, it has been stated that the guidelines of the Hon'ble Supreme Court in the case of M/s.Calcutta Knitwears [Civil Appeal No.3958 of 2014 dated 12.3.2014] with regard to recording any satisfaction note were brought to the notice of all for strict compliance and it has been clarified that even if the Assessing Officer of the searched person and the 'other person' is one and the same, then also, he is required to record his satisfaction as has been held by the Courts. Therefore, it has also been clarified that filing of appeals on the issue of recording of satisfaction note should also be decided in the light of the said judgment. Taking note of the said decision, the Board directed that pending litigation with regard to recording of satisfaction note under Section 158BD/153C of the Act should be withdrawn/not pressed if it does not meet the guidelines laid down by the Hon'ble Apex Court. The above circular fully covers the issue raised in the case on hand and the appeals have to be dismissed.

5. In the light of the above, the tax case appeals filed by the Revenue are dismissed and the substantial question of law framed is left open. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//
Sub Assistant Registrar

RS

To

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

2.The Commissioner of Income Tax Appeals II,
Coimbatore.

3.The Deputy Commissioner of Income Tax,
Central Circle-III,
Coimbatore.

TCA.Nos.256 & 257 of 2010

NR(CO)
CB(23/09/2020)