IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2020

CORAM

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

Tax Case (Appeal) Nos.329 & 330 of 2012

The Commissioner of Income
Coimbatore. ... Appellant in both appeals

Vs.

M/s.Sree Annapoorna Gowrishankar
Estates of consturctions Pvt., Ltd.,
not appearing in person or by an Advocate.117,
West Bashyakarulu Road, R.S.Puram,
Coimbatore-641 002. .. Respondent in both appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal 'B' Bench, Chennai dated 16.03.2012 in ITA Nos.1721 & 1776/Mds/2011, as against the order dt-1/8/11 passed by the commissioner of Income Tax(Appeals)in ITA.178/10-11, for the assessment year 2007-08, as against the order dt.31/12/2010 and 31/12/2009, respectively passed by the assistant commissioner of Income Tax, Coimbatore for the Assessment year 2007-08.

For Appellant :Mr.T.R.Senthil Kumar,
Sr.Standing Counsel
assisted by Ms.K.G.Usha Rani

For Respondent : Mr.R.Sivaraman

J U D G M E N T

(Judgment of the Court was delivered by DR.VINEET KOTHARI,J)

These Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, by raising the following substantial questions of law:

" T.C.A.No.329 of 2012

a. Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in deleting the addition made by the appellant under Section 69B of the Income Tax which were sustained by the Commissioner of Income Tax (Appeals)?

b. Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that no reference could be made to the Valuation Officer without rejecting the assessee's books of accounts?

c. Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that the case of the appellant is covered by the decision of the Supreme Court in case of Sargam Cinema Vs. CIT reported in 328 ITR 513 though Section 142A of the Income Tax Act, 1961 was inserted by Finance Act 2004, with retrospective effect from 15th November 1972, empowering the Assessing Officer to seek Valuation Report from the Valuation Officer for the purpose of making an assessment or reassessment?

d. Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that using the report of Valuation Officer in the reassessment without rejecting the assessee's books of accounts is impermissible and consequently the addition should be deleted?"

T.C.A.No.330 of 2012":

a. Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that addition made by the Assessing Officer towards the supplementary additional works is rightly deleted by the Commissioner of Income Tax (Appeals)?

b. Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that the case of the appellant is covered by the decision of the Supreme Court in case of Sargam Cinema Vs. CIT reported in 328 ITR 513 though Section 142A of the Income Tax Act, 1961 was inserted by Finance Act 2004, with retrospective effect from 15th November 1972, empowering the Assessing Officer to seek Valuation Report from the Valuation Officer for the purpose of making an assessment or reassessment?

d. Whether though Section 142A of the Income Tax Act, 1961 was inserted by Finance Act 2004, with retrospective effect from 15th November 1972, empowering the Assessing Officer to seek valuation report from the Valuation Officer for the purpose of making an assessment or reassessment?

d. Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that using the report of Valuation Officer in the reassessment without rejecting the assessee's books of accounts is impermissible and consequently the addition should be deleted?"

2. When the matter was taken up for hearing, the 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 not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

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

2.The Commissioner of Income Tax,
Coimbatore.

T.C.(A) Nos.329 & 330 of 2012

SVI(CO)
CB(28/07/2020)