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 No.292 of 2019

Principal Commissioner of Income Tax-3, Coimbatore-18 ...Appellant

Vs

M/s.R.Easwaran HUF, Tirupur.
Pin : 641605 ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 03.12.2018 made in ITA.No.591/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2011-12, against the order dated 8/12/2017 made in CIT (A) in ITA no.87/17-18 on the file of the commissioner of Income Tax(Appeals)-3, Coimbatore for the Assessment year 2011-12 dt.8/12/17 and against the order dated 21/10/2016 made in ITA No.168/mds/2016 & 421/mds/2016 on the file of the Income Tax appellate Tribunal C Bench, Chennai for the Assessment year 2011-12, and the order dated 30/03/2014 made in PAN No./GIR No.AACHR0736G on the file of the Deputy Commissioner of Income Tax, Circle-I, Tiruppur for the assessment year 2011-12.

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

For Respondent:Mr.N.V.Balaji

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, Standing appearing for the appellant - Revenue and Mr.N.V.Balaji, learned counsel appearing for the respondent.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 03.12.2018 made in ITA.No.591/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench (for brevity, the Tribunal) for the assessment year 2011-12.

3. The appeal has been admitted on 03.6.2019 on the following substantial questions of law :

> ""i. Whether, on the facts and in the circumstances of the case and in law, the Income Tax Appellate Tribunal is justified in deleting the penalty levied under Section 271(1)(c), when it is the first year of finance business by the assessee and hence, the write off claim is outside the purview of Section 36(1)(vii) read with Section 36 (2) and as such tantamount to filing of inaccurate particulars ?
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> ii. Whether the Appellate Tribunal was justified in deleting the penalty when the assessee failed to substantiate that the loss arose in the ordinary course of carrying on finance business, but ostensibly claiming it as 'bad debts' after closure of books for the relevant previous year falls squarely within the ambit of furnishing inaccurate particulars ?
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> iii. Whether the Appellate Tribunal is right in deleting the penalty for furnishing inaccurate particulars, when the write off was not reflected in the books on the date of survey on 21.7.2011 after closure of books on 31.3.2011 and hence, write off is not in the regular course of maintenance of books, is an afterthought to reduce the liability ? And
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> iv. Whether, on the facts and circumstances of the case, the Appellate Tribunal is correct in canceling the penalty levied under Section 271(1)(c) of the Act in following the Supreme Court judgment in the case of CIT Vs. Reliance Petroproducts P. Ltd. [reported in 322 ITR 158], which is clearly

distinguishable to the facts of the assessee's case?”

4. The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect is above the threshold 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

//True Copy//
Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax (Appeals)-3,
Chennai.

3.The Assistant Commissioner of Income Tax,
Circle-2, Tirupur-641 602.

4.The Income Tax Appellate
Tribunal 'c' Bench, Chennai.

5.The Deputy Commissioner of Income-Tax
Circle, Tirupur.

TCA.No.292 of 2019

NR(CO)
CB(18/08/2020)