IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.12.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.324 of 2018

Principal Commissioner of Income Tax, Central-1, Chennai ...Appellant/ Appellant

Vs

Shri T.R.Pachamuthu ...Respondent/ Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 28.10.2013 made in ITA.No.989/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2001-02 against the order of the Commissioner of Income Tax Appeals II,46(Old No.108), Mahathma Gandhi Road,Chennai 34,dated 11.02.2013 in ITA.NO.90/2010-2011/ A II PAN NO.AHMPP3160 B for the Assessment Year 2001-2002 and against the Deputy Commissioner of Income Central Circle-1(3), Chennai 34 dated 16.12.2008 PAN/GIR NO.AAMPP 3160 B Ward/Circle/Range,Central circle -1(3),Chennai 4 status individual for the Assessment Year 2001-2002.

For Appellant: Mr.T.R.Senthilkumar, SSC & Ms.K.G.Usharani, JSC

For Respondent: Mr.N.Devanathan

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel and Ms.K.G.Usharani, learned Junior Standing Counsel appearing for the appellant - Revenue and Mr.N.Devanathan, 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 28.10.2013 made in ITA.No.989/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench (for brevity, the Tribunal) for the assessment year 2001-02.

3. The appeal has been admitted on 06.12.2019 on the following substantial questions of law :

> "i. Whether the ITAT was right in granting the relief when the assessee had given three different explanations at three different times without any proof of its claim by producing bills and vouchers?
>
> ii. Whether, in the facts and circumstances of the case, has the assessee rebutted the presumption u/s. 132(4A) with regard to the seized material such that there is no cause for addition in his hands? and
>
> iii. Whether, in the facts and circumstances of the case, the assessee has discharged onus as well as burden of proof in establishing that the funds withdrawn at different points of time were only for construction activity of the society such that there is no case for addition in his hands ?"

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 file a petition before this Court to restore the appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy// Sub Assistant Registrar

To
1.The Income Tax Appellate Tribunal, Chennai 'B' Bench.
2.The Commissioner of Income Tax Appeals II,
46(Old No.108), Mahathma Gandhi Road,Chennai 34
3.The Deputy Commissioner of Income Central Circle-1(3),Chennai 34
+1cc to Mr.T.R.Senthil Kumar , Advocate SR.No. 41055

TCA.No.324 of 2018

A.SK(21.01.2021)