IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

T.C.A.No.626 of 2018
and
C.M.P.No.12745 of 2018

Principal Commissioner of Income Tax 1,
No.63, Race Course Road,
Coimbatore. ... Appellant

Vs.

M/s.Talent Alloys Private Ltd.,
No.36/99, Rajaji Road,
Ram Nagar, Coimbatore - 641 009.
PAN: AAB CT 0943 R ...Respondent

PRAYER: Tax Case Appeal filed under Section 260A of Income Tax Act, 1961 against the order dated 21.09.2016 in I.T (SS) No.144/Mds/2006 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 1987-88 to 1996-97, against the order of the Assistant Commissioner of Income Tax Company Circle I(2), Coimbatore made in PAN/GIR.No.AABCT0944J/ T-18, dated 24.03.2005 for the Assessment year 1987-88 to 1996-97.

For Appellant : Mrs.K.G.Usha Rani,
Junior Standing Counsel.
For Respondent : Mr.M.P.Senthil Kumar.

JUDGMENT
(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

This tax case appeal has been filed against the order of the Income Tax Appellate Tribunal dated 21.09.2016 in I.T (SS) No.144/Mds/2006 in partly allowing the appeal filed by the assessee against the order of the Assistant Commissioner of Income Tax.

2.Heard Mr.K.G.Usha Rani, learned Junior Standing Counsel for the appellant and Mr.M.P.Senthil Kumar, learned Counsel for the respondent.

3.This tax case appeal is admitted on the following substantial questions of law:

"(i)Whether on the facts and circumstances of the case and in law, the Tribunal is correct in relying upon the judgement of the jurisdictional High Court in the case of CIT Vs. Lovely Exports (P) Ltd when the cited case is clearly distinguishable from the instant case as the share application money received in the cited case was through banking channels while the payments in the instant case were made in cash with no supporting documents?

(ii)Whether the ITAT has failed to consider that the burden of proof lies on the assessee to prove the identity of the creditor, creditworthiness of the applicants and genuineness of the transaction to the satisfaction of the Assessing Officer?"

4. Mrs.K.G.Usha Rani, learned Junior Standing Counsel appearing on behalf of the appellant would submit that the tax effect in this case is less than Rs.1 crore and is covered by Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, Delhi. As per the said circular, the monetary limit to file an appeal before the High Court is fixed at Rs.1 crore. In this case, tax effect is less than Rs.1 crore and therefore, the appeal has to be dismissed.

5.This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the Circular, which prescribes monetary limit for filing appeal. Paragraph No.2 is usefully extracted as follows:

"2.As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

S.No.	Appeals / SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appeallate Tribunal	50,00,000
2.	Before High Court	1,00,00,000
3.	Before Supreme Court	2,00,00,000"

6.In view of the submissions made by the learned counsel appearing on behalf of the appellant and also in view of the Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Delhi, this Tax Case Appeal is dismissed on account of tax effect. However, the substantial questions of law framed is left open. In the event the tax effect is above the 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. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(C.S.VI)

/True Copy/

Sub Assistant Registrar

To

1.The Principal Commissioner of Income Tax 1,
No.63, Race Course Road,
Coimbatore.

2.The Assistant Commissioner of Income Tax,
Company Circle I(2), Coimbatore.

3.The Income Tax Appellate Tribunal,
'D'Bench, Chennai

+1 cc to M/s.G.Baskar, Advocate Sr.No. 5899

AKM/02.03.2020/3P-4C /
AKM/10.03.2020

T.C.A.No.626 of 2018
and
C.M.P.No.12745 of 2018

Page numbers/Statistics