IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2020

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
&
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.641 to 645 of 2018

Principal Commissioner of Income Tax
Central 2
No.108, Mahatma Gandhi Road,
Chennai. ... Appellant in all the appeals.

Vs.

Shri.N.Muthusamy ... Respondent in all the appeals

Tax Case Appeals are filed under Section 260A of the Income Tax Act 1961 against the order dated 19.10.2017 made in I.T.A.Nos.1030 to 1033 and 1036/Mds/2017 on the file of the Income Tax Appellate Tribunal, Madras "A" Bench, for the assessment years 2007 - 12 against the order of the Assistant Commissioner of Income Tax Central Circle 1(1), Chennai 34 dated 24.08.2017 in I.T.A. No. 897 & 898/Mds-2017 dated 28.07.2017 in I.T.A.Nos.2714, 2715 & 2716/Mds-2016;
and against the order of Commissioner of Income Tax (Appeals)18 Chennai 34 dated 09.01.2017 in I.T.A. No. 78 to 82/2015-2016 and arising out of the Assessment order of the Deputy Commissioner of Income Tax, Central Circle-1, Coimbatore dated 31.03.2015 in PAN/GIR. Nos. AHHPM7025M.

For Appellant : Mr.T.R.Senthil Kumar
in all the appeals

For Respondent : Mr.A.S.Sriraman
in all the appeals

Common Judgment

(Judgment was delivered by T.S.SIVAGNANAM.J)

We have heard Mr.T.R.Senthil Kumar, learned counsel for the appellant and Mr.A.S.Sriraman, accepting notice for the respondent.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 are directed against the order dated 19.10.2017 made in I.T.A.Nos.1030 to 1033 and 1036/Mds/2017 on the file of the Income Tax Appellate Tribunal, Madras "A" Bench, for the assessment years 2007 - 12.

3. The Tax case appeals were admitted on 19.11.2018 on the following substantial questions of law :

> "i. Whether the Appellate Tribunal is correct in holding that the assessment can be done under Section 153A of the Income Tax Act only based on incriminating material ignoring the fact that under the new procedure of search assessment, it is the 'total income' that is to be determined and not merely the income relating to search?
>
> ii. Whether the Appellate Tribunal has correctly interpreted the wording of Section 153A, which are different from that of Section 158BC of the Income Tax Act?
>
> iii. Whether, on the facts and in the circumstances of the case, under Section 153A of the Income Tax Act, the Assessing Officer is not eligible to bring to tax all the income, which was hitherto untaxed besides the income detected on account of search conducted under Section 132 of the Income Tax Act? And
>
> iv. Whether the Appellate Tribunal is correct in not following the recent judgment of the Kerala High Court in the case of K.N.Gopakumar Vs. CIT (Central) [reported in 75 Taxmann.com 250]?"

4. It is submitted that the circular issued by the CBDT would apply and these appeals are not pursued by the revenue on account of low tax effect.

5. Accordingly, the tax case appeals are 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 appeals to be heard and decided on merits.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Income Tax Appellate Tribunal, “A” Bench, Chennai.
2.The Commissioner of Income Tax (Appeals) Chennai
3.The Deputy Commissioner of Income Tax Central Circle-1
  Coimbatore
4.The Assistant Commissioner of Income Tax, Central Circle1(1)
  Chennai
5.The Principal Commissioner of Income Tax
  Central 2, 108 Mahatma Gandhi Road, Chennai

Tax Case Appeal Nos.641 to 645 of 2018

MR(CO)
SP(30/09/2020)